WOMEN IN ISLAM

MASOOD ALI KHAN

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WOMEN IN ISLAM

The fact is that Prophet Muhammed had allowed a Muslim to marry four women. This fact had historically speaking weakened the position of women in the Islamic Society. But that was a different society governed by historical circumstances, the tribal warfares were very common and more and more men were wanted for the survival of the tribe. But the Prophet had great regards for women. Some of the women out of his 9 wives were elderly to him. But in order to give shelter to those hapless women he had made them his wives. Besides this he had great love and affection for his daughter who always helped him and guided him.

Beside Islamic Feminism, its politics and ethnicity; the book deals with the roles and responsibilities assigned to muslim woman in Islam, and their rights within Islamic societies. The position of Muslims with special reference to women in British India and Religious human rights and Cultural rights of women in Islam are also elaborated in this book.

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2006
SUBLIME PUBLICATIONS
JAIPUR

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JAIPUR INDIA

First Published 2006

ISBN : 81-8192-088-0

Price : Rs. 995

© Author

Published by :
Sublime Publications
18, Jain Bhawan,
Opp. N.B.C., Shanti Nagar
Jaipur - 302 006
Tel : 0141-2573438, 2220590
E-mail : sublimepublications@yahoo.co.in

Sales Office :
Shop No. 2, II[nd] Floor, Mishra Takshali Mension,
Opp. S.B.B.J., Choura Rasta, Jaipur-302003
Mobile : 9414042590

Laser Typesetting by :
Vikram Kumar Sharma
Moblie : 9828456403
Jaipur

Printed at :
Roshan Offset Printers
Delhi

Preface

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In the modern world however, due to the influence of education and political conditions women in Islam are changing. They are getting education and their political and economic conditions are also changing Women reformers and intellectuals in Islamic societies fully agree that women in Islam should be given more freedom and respect.

I also take this opportunity to express my thanks to Mr. A.K. Jain of M/s Sublime Publications, Jaipur for their promptness in bringing out this book in so short a time.

Dr. Masood Ali Khan

Contents

Preface *v*

1. Islamic Feminism 1
2. Politics and Feminism in Islam 32
3. Ethnicity and Gender in Islam 63
4. Muslim Women in British India 94
5. Nationalist Muslims in British India 112
6. Modernity, and Muslim Identity in India before 1947 153
7. Too Little and Too Much 168
8. Islamic Roots of Religious Human Rights 184
9. Rights of Women within Islamic Societies 206
10. Religious Dissidents Under Classical and Contemporary Islamic Law 233
11. An Apologia For Religious Human Rights 286
12. Religion and Human Rights: A Theological Apology 313
13. Religious and Cultural Rights of Muslims 341

Contents

1

Islamic Feminism

Few debates among expatriate Iranian feminists and leftists have been as contentious as those centered on *Islamic feminism*. The very term as well as its referent are subjects of controversy and disagreement. Can there be such a thing as a feminism that is framed in Islamic terms? Is Islam compatible with feminism? Is it correct to describe as feminist or even as *Islamic feminist* those activists and scholars, including veiled women, who carry out their work toward women's advancement and gender equality within an Islamic discursive framework? Can the activities of reformist men and women—who situate themselves within the broad objectives of the Islamic Republic of Iran and seek the improvement of the status of women—be described as constituting an Islamic feminism? Or are they reinforcing and legitimizing the state's gender policy? And are those expatriate feminist scholars who report positively on *Islamic feminism* correct to promote the phenomenon? These are among the vexed questions that have emerged in various writings and that have been met by divergent responses.

This article provides an introduction to the debate and to its main protagonists. I focus on the Iranian debate, although there has been a wider and long-standing debate among feminists within Middle East women's studies regarding veiling and Islamic identity, feminisms among Arab/Muslim women, orientalism,

universalist values, and cultural relativism. Given the contentious nature of the debate and the tendency toward misrepresentation of positions, a concern for balance and clarity motivates this article. It is an attempt to contribute to dialogue and understanding and to help move the Iranian debate forward by identifying the strengths and weaknesses of the two main positions and the gaps that need to be addressed. I am also concerned with the definition and meaning of feminism, its applicability to Muslim societies, and the need for a more inclusive and cross-cultural understanding of feminism and the global women's movement.

I begin by providing some background to the debate through an overview of the Iranian Revolution, the role of leftists in it, the gender regime instituted following the revolution, some comments on the expatriate community, and recent political development in Iran. I then turn to the perspectives of the scholars involved in the debate. Finally, I discuss the issues that are taken up by Islamic feminists and stake out my own perspective on the debate and on Islamic feminism itself.

The Revolution and its Aftermath: An Overview

In 1979, Iran's monarchy was replaced by an Islamic republic, whose ruling clerics immediately instituted radical political and social changes. A broad revolutionary coalition that included an array of political groups (leftists, nationalists, and Islamists) and social forces (women and men of the middle classes, the intelligentsia, the working class, and the urban poor) brought about this change in regime. As early as the spring of 1979, however, the revolutionary coalition began to break down over the political direction of the new republic, and a mini-civil war took place that only ended in 1981 (or, in some accounts, 1983). Thus, it may be said that Iran had two revolutions. The first, the populist revolution in which leftists were quite prominent, ended the monarchy and brought about a republic. The second, the Islamic revolution, marginalized or eradicated leftists and liberals and instituted a draconian cultural-political system characterized by the rule of a clerical caste, the application of Islamic law to the areas of personal status and crime, and compulsory veling for women. During the 1980s, leftists—whether of the communist or Muslim variety—were purged from jobs, forced underground, compelled to flee Iran to escape arrest, imprisoned, subjected to torture, executed, and assassinated. In Europe and the United States, as well as in the former socialist bloc countries, a large

expatriate community of Iranian communists, monarchists, liberals, Muslim socialists, and feminists began to form.

The Islamic Republic of Iran (IRI) instituted other measures that greatly diminished the legal status and social positions of women. It banned women from serving as judges, discouraged women lawyers from practicing and other women from becoming lawyers, and excluded women from many fields of study, occupations, and professions. It repealed legislation, known as the Family Protection Act of 1967 and 1973, which had restricted polygyny, raised the age of marriage for girls, and allowed women the right to divorce. The Islamic regime all but banned contraception and family planning. It waged a massive ideological campaign that celebrated Islamic values and denigrated the West, extolled women's family roles, and championed *hejab* (Islamic modest dress) as central to the rejuvenation of Islamic society.

The full effects of the Islamic Republic's definition of women's place came to light when the results of the 1986 national census of population and housing were analyzed. These included increasing fertility and population growth, a decline in female labor force participation, particularly in the industrial sector, lack of progress in literacy and educational attainment, and a sex ratio that favored males. Clearly, religio-politics had resulted in an extremely disadvantaged position for women; it had reinforced male domination; it had compromised women's autonomy; and it had created a set of gender relations characterized by profound inequality.

In the 1990s, however, the combination of a number of factors served to undermine several of the most egregious policies of the Islamic Republic and reverse its program on women, family, and gender relations. The changes occurred after the death of Ayatollah Khomeini, during the presidency of Ali Akbar Hashemi-Rafsanjani, and in the context of a program for economic liberalization, integration into the global economy, and the (re) establishment of capitalist society.

The first set of factors that shaped the trajectory of the Islamic Republic and its gender regime pertain to the social structure and the nature of Iran's Islamic ideology. In the 1980s Iran had a sizable modern middle class and working class whose members had relatively high rates of literacy and educational attainment. Iran has had a relatively long experience with modernization and

economic development, and women's roles were somewhat varied in prerevolutionary Iran. Iranian modernization certainly affected expectations and aspirations within Iranian society, resulting in considerable resistance to strict Islamization. Significantly, it may also have shaped the values and vision of many Islamists. Two important ideologues of the Islamic Republic, the late Ayatollah Morteza Motahhari and the late Ali Shariati, were part of the school of Islamic modernism.

Their thinking on women was contradictory and problematical, but they claimed to espouse women's rights; "both men found it necessary to show that Islam did not stand in the way of women's education, work, and participation in social life or stunt the personal development of women". Neither Motahhari nor Shariati opposed women's employment, although Motahhari, whose wife was a schoolteacher, did call for sex segregation in the workplace. Many of the officials of the Islamic Republic, including some of the clerical leaders, have higher education, are from the middle class, and favor industrialization, foreign investment, and economic growth.

The second set of factors was the long war with Iraq and the mobilization of all Iranian men. This created some employment opportunities for educated women in the public sector, particularly in health, education, and (to a lesser extent) public administration. These jobs went to ideologically correct women, but their very presence suggested both the determination of women and the flexibility of the Islamic regime. Third, while women were discouraged from assuming public roles, they were not formally banned from the public sphere; moreover, the regime rewarded Islamic women by allowing them to run for parliament and giving them jobs in the civil service. As early as the IRI's first parliament in 1980 there were four women members, at least two of whom—Azam Taleghani and Maryam Behrouzi—became known as Islamic feminists. Many of the women parliamentarians and women civil servants came to make demands on the government for equality and greater opportunity. Fourth, although working-class women were the most adversely affected by the early employment policies, a small contingent continued to work in factories, whether out of their own need and aspirations or because the employers could not find men to replace them. Women in such occupations served to negate the ideal of full-time motherhood and notions of the inappropriateness of factory work for women.

Fifth, evidence of increasing fertility in a situation of declining government revenues, indebtedness due to the war with Iraq, and increasing unemployment and poverty alarmed the authorities. Thus, following the death of Khomeini, the government reversed its opposition to family planning and embarked on a vigorous campaign to stabilize population growth through the widespread distribution of contraceptives to married women and men. In May 1994 the streets of Tehran were filled with signs promoting the campaign, linking small families to a higher quality of life and healthier children.

Sixth, as a result of agitation by activist Islamic women, restrictive barriers to women's educational achievement and their employment were removed. In 1992 the High Council of the Cultural Revolution adopted a set of employment policies for women. This new directive, while reiterating the importance of family roles and continuing to rule out certain occupations and professions as Islamically inappropriate, encouraged the integration of women in the labor force and directed attention to their interests and needs. The government also changed its policy on women and the legal profession, and during the 1990s the field of law became more open to women. In April 1993 there were 2,661 registered lawyers in Iran, including 185 women. The law of 1371/1992 allowed for the employment of "women legal consultants" in the special civil courts. In 1997 the judiciary began to employ some twenty women holding degrees in law who would work as investigation judges, court counselors, and deputies/assistant judges. Since the 1990s there has been a steady increase in women's share of government employment, though this may reflect the deterioration of government wages and the increasing participation of men in the private sector. The number of public-sector employees was nearly two million in 1994, of which 603,000, or about 31 percent, were women. The ministries of education and health employed most of these women (43.8 percent and 40 percent, respectively), and nearly 34 percent of them had university degrees. By 1996, fully 38 percent of civil servant employees were female.

As a result of both its own economic imperatives and the repeated requests of women advocates, the government undertook a number of measures pertaining to women and work, including vocational training for rural women. A bill was passed in 1992 to guarantee equal payment of new year bonuses for male and female

civil servants. Rafsanjani's government encouraged the participation of women in scientific and technical fields such as medicine, pharmacology, midwifery, and laboratory work—"which is more suitable to their physiological make-up"—and established quotas of 25 percent female in the fields of neurology, brain surgery, cardiology, and similar specializations. Meanwhile, women's access to secondary schooling and higher education increased steadily over the decade.

In the realm of politics, the increasing visibility of women has been a gradual but noticeable trend. During the 1995 parliamentary elections, nine female members of parliament were elected to the Majlis; women's affairs offices were established in each ministry and government agency; and numerous nongovernmental (or rather quasi-governmental) organizations dealing with women's concerns were formed. Speeches by the women parliamentarians attest to changing and more assertive attitudes, with language that is less specifically Islamic and more compatible with what may be called "global feminism." Maryam Behrouzi, for example, stated, "We don't believe that every social change is harmful. Cultural refinement of some traditions, such as patriarchy *(mardsalari)*, anti-woman attitudes *(zan-setizi)*, and humiliation of women *(tahghir-e zanan)* must disappear. These have been fed to our people in the name of Islam".

In the latter part of the 1990s, a new trend emerged in Iran: a broad-based social movement for the reform of the Islamic Republic. This movement—comprised largely of students, intellectuals, and women—has called for civil liberties, political freedoms, women's rights, and a relaxation of cultural and social controls. The reform movement has been behind the proliferation of a dynamic (albeit beleaguered) press, the 1997 election of the liberal cleric Mohammad Khatami, and the outcome of the parliamentary elections of February 2000, in which reformists made sweeping gains. Intellectuals have issued open letters and penned articles deemed seditious, and several prominent writers and dissidents have been jailed or murdered. In an audacious move in July 1999, university students protested against state repression and called for an acceleration of President Khatami's calls for civil society and democracy in Iran, only to be met by violent assaults by Islamist vigilantes. Most of the Islamic feminists discussed in this article are associated with the reform movement,

although they have not engaged in similar forms of collective action.

The Islamic Republic's gender regime has certainly evolved since the 1980s. In 1997, the newly elected President Khatami named Massoumeh Ebtekar, a U.S.-educated lecturer and an editor of the women's studies journal *Farzaneh,* as vice president in charge of environmental affairs. Culture Minister Ayatollah Mohajerani then appointed Azam Nouri as deputy culture minister for legal and parliamentary affairs. Interior Minister Abdollah Nouri followed by naming Zahra Shojai as Iran's first director-general for women's affairs, described in the Iranian media as a long-time women's rights activist, a professor at al-Zahra University in Tehran, and a member of the interior ministry's Women's Commission. Shojai would be responsible for issues such as social policies for women and violence against women. These were the first women to serve in top government posts since the 1979 revolution, and they proceeded to work with the reformist women parliamentarians who won seats in the February 2000 Majlis elections. It is the interpretation of these political developments, and the contributions of activist Islamic women to liberalization and reform, that is at the heart of the debate on Islamic feminism.

The Debate: Viewpoints of the Protagonists

Those involved in the debate on Islamic feminism form two opposing camps. On the one side are those who explore the possibilities that exist within Islam and within the IRI concerning women's interests. Chief among them are three feminist social scientists educated in Iran and the West, two of whom have deep roots in the Iranian left and the women's movement. Afsaneh Najmabadi, educated in both the United Kingdom and the United States, is a professor of women's studies in New York; Nayereh Tohidi is a U.S.—trained professor of women's studies in California; Ziba Mir Hosseini is a Cambridge-educated social anthropologist based in London. In the 1970s and 1980s Tohidi and Najmabadi were active in the left-wing anti-Shah student movement and later in the antifundamentalist and feminist movements. Najmabadi was a founding editor of the expatriate feminist journal *Nimeh-ye Digar* (The other half). Tohidi, who traveled to Iran several times in the 1990s, is in close contact with feminists in Iran and, like Najmabadi, often publishes in the Iranian women's press. Mir Hosseini, along with British filmmaker Kim

Longinotto, produced the acclaimed 1998 documentary film *Divorce Iranian Style* and most recently has filmed a documentary on runaway girls in Iran.

In the opposite camp are those who argue vehemently against the possibility that activists and scholars operating within an Islamic frame-work, especially in contemporary Iran, may be accurately described as "Islamic feminists." Islamic feminists and their expatriate academic supporters, they argue, either consciously or unwittingly delegitimize secular trends and social forces. They maintain that the activities and goals of "Islamic feminism" are circumscribed and compromised, and they contend that there cannot be improvements in women's status as long as the Islamic Republic is in place. This group similarly includes Western-educated feminist social scientists, one of whom is a man, with deep roots in the left and in the women's movement. Haideh Moghissi teaches women's studies in Canada, Shahrzad Mojab holds a university administrative post in Canada, and Hammed Shahidian teaches sociology in the United States Shahidian's articles have appeared in U.S. sociology journals and in the women's press in Iran. All three situate themselves on the secular left of the Iranian political spectrum.

In Defense of Islamic Feminism

Although writings on women and gender in the Islamic Republic were almost uniformly critical during the 1980s, a change of tone and style could be discerned after 1990. Several studies began to argue that reforms and policy shifts were occurring in the Islamic Republic, that an incipient women's movement was under way, and that Muslim women activists were behind many of the changes. In the early 1980s, the writings of Parvin Paidar (sometimes under the name Nahid Yeganeh) suggested that Islamic women and left-wing women had some of the same concerns regarding the legal status and social positions of women and that these could lead to future alliances. "On the political front," she wrote, "we must situate ourselves in the mainstream of debates and dialogues. In making our alliances and voicing our oppositions, we cannot rely on preconceived ideas about ideologies such as Islam. Islamic political forces should always be assessed in relation to the overall political scene". At the time, however, her writings did not engender the kind of harsh debate that has developed since the mid-1990s, The debate proper on Islamic feminism may be said to have begun in February 1994, when Najmabadi gave a

talk at the School of Oriental and African Studies, University of London, in which she described Islamic feminism as a reform movement that opens up a dialogue between religious and secular feminists. A Persian-language article ensued, and at least two English-language essays contain her views.

In her talk, Najmabadi focused on the women's magazine *Zanan* and the quarterly *Farzaneh*, both published in Tehran. *Zanan*, which was founded in 1992 by Shahla Sherkat, the former editor of the establishment women's magazine *Zan-e Rouz*, had become by 1994 the major voice for reform in the status of women. In the magazine's inaugural issue, Sherkat writes, "We believe that the key to the solution of women's problems lies in four realms: religion, culture, law, and education. If the way is paved in these four principal domains then we can be hopeful of women's development and society's advancement". Each issue of the magazine has sections and articles on these four areas. *Farzaneh* is an academic journal of women's studies and research and less radical in its approach and its implications than *Zanan*. Najmabadi argued that Islamic feminists—and especially the editor and writers of *Zanan*—are open to Western feminism. Their translation and publication of the writings of Western feminists proves this. She described how articles in *Zanan*—particularly a series of articles that appeared in the initial issues—challenge orthodox Islamic teachings on the differential rights and responsibilities of women and men by claiming women's right to equality. She explained that part of her enthusiasm for Islamic feminism, and especially for *Zanan*, lay in her belief that they have entered a common ground with secular feminists in their attempts to improve women's legal status and social positions.

In her writings, Najmabadi discusses how Islamic feminists have come to insist that gender discrimination has a social rather than a natural (or divine) basis and how this could open the door to new possibilities for gender equality. Moreover, Sherkat and similar women, well versed in the Qur'an and who refer directly to the Qur'an in their writings, have raised the issue of the right to *ijtehad* (independent reasoning, religious interpretation) and the right of women to reinterpret Islamic law. Najmabadi writes, "At the center of *Zanan's* revisionist approach is a radical decentering of the clergy from the domain of interpretation, and the placing of woman as interpreter and her needs as grounds for interpretation". This, she feels, challenges one of the foundational concepts of the

Islamic Republic: deference to the rulership of the supreme jurisprudent, or the *velayat-e faghih*. Another reason for Najmabadi's celebration of Islamic feminism (again, as articulated in *Zanan*) is her belief that it has opened up a new space for dialogue between Islamic women activists and reformers and secular feminists, thereby breaking down the old hostile divide between secular and religious thought. She maintains that *Zanan* could bridge the divide between Muslim women and women of the religious minorities—though she does not elaborate on this point or provide any empirical examples.

Najmabadi further elaborates her hopeful prognosis regarding Islamic feminism in two essays in which she explains the views of the cofounders of the women's studies journal *Farzaneh*. Her interpretation of several essays by Ebtekar and Mahboubeh Ommi suggests that the two are open to an emancipatory program for women, and one that is not necessarily exclusively grounded in Islam.

Like Najmabadi, Mir-Hosseini offers a careful analysis of the writings of *Zanan*, and she was the first to point out that the author of the early revisionist Islamic writings was a cleric, Mohsen Saidzadeh, who was writing under a female pseudonym. But her analysis of gender and Islamic feminism in Iran goes even further, and she may be said to hold the "strong thesis" on Islamic feminism. In her writings, she focuses on new discourses on gender among Islamic theologians, the challenging of Islamic family laws by ordinary women, and the emergence of reform-minded Islamic feminists. Mir-Hosseini argues that an unpredicted outcome of the Islamic revolution in Iran has been to raise the nation's gender consciousness. "Whatever concerns women—from their most private to their most public activities, from what they should wear and what they should study to whether and where they should work—are issues that have been openly debated and fought over by different factions, always in highly charged and emotional language". She is mainly concerned with the paradoxical ways that the whole process has come to empower women and to create a popular feminist consciousness.

Mir-Hosseini has written most extensively about how family law, and in particular marriage and divorce, have constituted a contested arena. The official discourse promotes domesticity and motherhood for women as ideal roles, and the constitution promises

to guard the sanctity of the family: Yet, the return to Sharia law gives men a free hand in divorce and polygamy. This "in effect subverts the very sanctity of the family as understood by women, thus going against the Constitution's promise". She then argues that many Muslim women who had at the beginning genuinely, albeit naively, believed that under an Islamic state women's position would automatically improve became increasingly disillusioned by the new discriminatory and patriarchal discourses and policies. These included establishment women such as Zahra Rahnavard, Azam Taleghani, and Monireh Gorji. Meanwhile, under the editorship of Sherkat, *Zanan* became the principal forum for the discussion of the injustices of current Sharia interpretations and their application to civil codes. In *Zanan* and elsewhere, feminist lawyers Mehrangiz Kar and Shirin Ebadi delineate the problems and legal tangles that women confront in terms of both the substance of the law and its implementation.

The Islamic Republic's failure to deliver on its promise to honor and protect women, Mir-Hosseini argues, has led to the emergence of the Islamic feminist challenge, or as she puts it, "[to] an indigenous, locally produced, feminist consciousness". This consciousness and challenge, she suggests, led to amendments to the divorce law in 1992, whose spirit is to make divorce less accessible and more costly to men. It has led to the widespread use of concepts such as *mardsalari*, which refers to male dominance and patriarchy. And it has led to the proliferation of social analyses by and about women and gender, particularly in *Zanan*. Mir-Hosseini has traced the evolution of these analyses in *Zanan* from the hesitant voice of the magazine's beginning, to the assertion of a *fiqh* (Islamic jurisprudence) voice, particularly with the series of articles written by the cleric Mohsen Saidzadeh in favor of equality for women and men and the reform of Sharia laws. She shows how the emerging Islamic feminist perspective rejects the orthodox view of complementarity of rights—a notion that emphasizes gender differences in rights and obligations and sees their source in both natural and divine law. And like Najmabadi, she sees *Zanan's* willingness to publish the lawyer Kar as a sign of the magazine's "willingness to join forces with secular feminists to protest against the gender biases of a law, which is derived from the Sharia." She deems this development "novel in post-revolutionary politics".

In *Islam and Gender*, Mir-Hosseini provides a detailed account of three Islamic perspectives on and debates about women and gender: traditionalist, neotraditionalist, and modernist. Drawing on her extensive fieldwork and taped interviews with leading clerics, she shows the similarities and differences among the three perspectives, the extent to which "the woman question" preoccupies them, and "the avenues they are opening for dialogue and change within the framework of Islam". She concludes that the gender debates in Iran have "nurtured not only a new school of jurisprudence, which is slowly trying to respond to social realities, but also a new gender consciousness".

Nayereh Tohidi is well known in Iranian expatriate circles for her many Persian-language writings and lectures on politics and women, from her early days as a left activist to the present. Her articles in the 1980s tended to be very critical of the Islamic Republic and of its gender policies. During the 1990s her writings shifted from an emphasis on the forms of gender oppression in Iran to the empowerment of Muslim women and the possibilities for reform within the Islamic system in Iran. Taking a cue from Deniz Kandiyoti's concept of "bargaining with patriarchy," she argues that women are able to renegotiate gender roles and codes and to find "a path of compromise and creative synthesis". She explains how her visits to Iran during the 1990s, and in particular her interviews and observations, compelled her to shift her focus from repression to resistance and empowerment. Moreover, she lists a number of scholars who, like herself, have changed their mode of inquiry, mainly on the basis of empirical research. Her views are expounded in a number of Persian-language journals and in a Persian-language book, but Tohidi also publishes in English. She asserts that "secular feminists, democrats, and liberals have not been alone in contesting the state's ideology and politics on gender issues. Many proponents of Islam are playing an important role in the reformation of women's rights in an Islamic context".

In a book that she has coedited, Tohidi writes approvingly that women in the Muslim world are fighting and strategizing against two sets of pressures, "one stemming from the internal patriarchal system and the other emitted by those forces seen as external, threatening people's national and cultural boundaries." She describes one of those strategies, "the recently growing phenomenon of 'Islamic feminism'," a movement of women who

"have maintained their religious beliefs while trying to promote egalitarian ethics of Islam by using the female-supportive verses of the Qur'an in their fight for women's rights, especially for women's access to education." Echoing Mir-Hosseini, she notes that Islamic feminists undermine the clerical agenda both within and outside the Islamist frame-work in a number of ways: "by subtly circumventing the dictated rules (*e.g.*, reappropriating the veil as a means to facilitate social presence rather than seclusion, or minimizing and diversifying the compulsory hijab and dress code into fashionable styles), engaging in a feministic *ijtehad*, emphasizing the egalitarian ethics of Islam, reinterpreting the Qur'an, and deconstructing Sharia-related rules in a women-friendly egalitarian fashion (e.g., in terms of birth control, personal status law, and family code to the extent of legalizing a demand for 'wages for housework')".

Tohidi warns that "secular feminists should differentiate between those Islamic women who are genuinely promoting women's rights and hence inclusionary in their politics from those who insist on fanatic or totalitarian Islam". She echoes the feminist lawyer Kar in stressing that a "reformist or women-centered interpretation of religious laws should be considered not as an alternative to secular and democratic demands but as a component of more holistic social change". Elsewhere, she elaborates on the necessary interaction of religious reinterpretation and secular thought and activism toward "modernity and democracy in Iran.

The Case Against Islamic Feminism

Haideh Moghissi complains that "it has become fashionable to speak sympathetically and enthusiastically about the reformist activities of Muslim women, and to insist on their independence of thought. . . . The message is that a new road has been opened up for women—Muslim and non-Muslim alike—to gain equal rights to men: a road based on feminist interpretations of Islamic sharia laws". This is problematical, she writes, for several reasons. It obscures the fact that in a country like Iran, Islam is not a matter of personal spiritual choice but rather a legal and political system. "Islam in political rule is incompatible with the cultural pluralism that is after all the prerequisite of the right to individual choice".

Although critical of those "apologists of the Islamic government and uninformed observers" who attribute legal changes in the

Islamic Republic to "the enlightenment of conservative Islamists", she does not directly claim that there have been no achievements by Islamic feminists in Iran. In fact, she refers to the opportunities afforded to Islamic women and to the accomplishments of the female political elite. Without properly attributing these ideas to previous authors, she notes that the Islamic Republic's gender ideology faces the imperatives of a capitalist system, which requires sexual desegregation, and that the clerical state tries to accommodate the demands of activist women. But then she opines that the "exaggerated reports" about recent legal gains by women, and the role of Islamic feminists in bringing them about, divert attention away from societal opposition to the economic, social, and cultural conditions brought about by nearly two decades of Islamization. It serves to strengthen the legitimacy of the Islamic system in Iran and "weakens the struggle of women inside Iran". She does not explain how this occurs.

A central point is that the term *Islamic feminist* has been used in "inaccurate" and "irresponsible" ways. Almost all Islamic and active women are designated Islamic feminist, Moghissi asserts, "even though their activities might not even fit the broadest definition of feminism". Although she herself does not define feminism, Moghissi complains that the term *Islamic feminism* encompasses members of the female political elite who believe in the Sharia and its prescribed gender rights and roles, such as three former female parliamentarians who were responsible for two reactionary bills. Another criticism is that the term and the emphasis on the achievements of those believing women who reinterpret the Qur'an obscure the political, ideological, and religious differences among Iranian women and mask the valiant efforts of socialists, democrats, and feminists to work toward secularism. In her 1999 book, which is largely a collection of previously published essays, she writes of "the masterful manipulation of observers by the fundamentalists". As in her Persian-language article, Moghissi singles out expatriate feminist authors, finds faults with their analyses, and labels them. But whereas in her *Kankash* article she deemed them "neoconservative," in her book she brands them "postmodernists" and "cultural relativists." She writes, "Charmed by 'difference' and secure from the bitter fact of the fundamentalist regime, outsiders do them [Iranian women and men] a disservice by clinging to the illusion of an Islamic path".

Hammed Shahidian similarly argues that the politics of "Islamic feminism" is problematical, whether in Iran or elsewhere. Like Moghissi, he argues that the emphasis on the achievements of Islamic women obscures the contributions of the left and secularists in the face of continued Islamist repression in Iran. (Ironically, Shahidian, like Moghissi, has published essays exceedingly critical of the left.). In one article he refers to a "deepening identity crisis" among secular Middle East feminists and approvingly quotes two Iranian left-wing feminists: "Some women have found the pull towards a full or partial reconciliation with Iranian-style fundamentalism stronger. A trend is now developing among some Iranian feminists . . . to stand back and consider Islamic fundamentalism as opposed to stand up and fight against it." Shahidian adds that "this is a keen prognosis about the emerging conciliatory regard for 'Islamic feminism'," and he implies that academic supporters of Islamic feminism have given up the "critical edge" that he finds so appealing in his discipline, sociology.

Dismissive of attempts by Arab scholars such as Fatima Mernissi and Aziza Al-Hibri and the Pakistan-born Riffat Hassan to craft a feminist theology and reinterpretation of Islamic texts, Shahidian argues that these attempts are futile, given the strength of conservative, orthodox, traditional, and fundamentalist interpretations, laws, and institutions. He is especially critical of a growing trend in Middle East women's studies wherein authors justify Muslim women's veiling, domesticity, moral behavior, and adherence to Islamic precepts as signs of individual choice and identity. Even if we do not accept the notion of "false consciousness," he asks, is it not incumbent on scholars to situate and understand actors' views and perceptions within the broader social, cultural, political, and economic context? Political repression, cultural conservatism, and the social control of women characterize this context, he notes. For these reasons, Shahidian not only argues that Islamic feminism is an oxymoron but also that it has wider ramifications even beyond the Iranian left and Iranian society. Although he does not elaborate on this point, he asserts that Islamic feminism and its defense "affects the women's movement and the Left worldwide".

Shahidian notes that Islamic feminists in Iran have been attentive to and influenced by Western feminism. But he is critical

of them for neglecting key issues of sexuality, veiling, and religious law. His involvement in the debate on Islamic feminism extends to participation in an exchange with Iranian sociologist Nahid Motiee in the pages of *Zanan*. Shahidian criticizes Motiee's defense of the family and raises questions about her and other Islamic feminists' understanding of patriarchy, gender, and sexuality, including homosexuality. He concludes that Islamic feminism fails to offer a liberating alternative to the dominant Islamic discourse and practice of gender and sexuality.

Whereas Shahidian has been especially critical of Tohidi, Shahrzad Mojab has focused on Najmabadi's writings on Islamic feminism. In an article published in the Persian-language magazine *Arash*, Mojab criticizes Najmabadi for suggesting that *Zanan* is the new "democratic forum" and that it can help to feminize democracy. She disputes Najmabadi's hopeful prognosis about the reinterpretation of Islamic texts and stresses that the ruling religious elite can dismiss, delegitimize, or prohibit radical or feminist reinterpretations. What Iran's Islamic feminists have achieved is, at any rate, quite limited in content and consequence. Real change—real democratization—will come about outside of the religious framework, writes Mojab.

Some Iranian leftists in exile have been very vocal in opposing Islamic feminism. Left-opposition newspapers and magazines have carried articles describing the phenomenon and rejecting it as illusory or as legitimizing Islamic rule. Representative of this line of thought is an editorial titled "The Limits of Islamic Feminism" in *Iran Bulletin*, an English-language magazine published in England with ties to the socialist group Rah-e Kargar. The basic premise is that no reform is possible in an Islamic legal and political system where "the very structure of power is male dominated to an absolute degree, backed by the Constitution, an all male clerical system ruling the country, and a Shari'a written for an era long past its sell-by date." The author, M. Kia, argues that the Islamic reformist discourse is not identical to liberation theology but derives from "a religion in which the role of women is clearly stated." This stated role includes women's inferior status with respect to marriage, divorce, child custody, inheritance, and court witnessing, the ban on women judges, and mandated veiling. The article notes that under pressure from women a debate has been under way and some political changes have been introduced, but the reforms have been limited and do nothing more than

return Iranian gender codes to their prerevolutionary situation, which is still considerably behind most countries with similar economic status. Any reform movement or discourse that is carried out within the framework of Islamic law and that takes for granted the legitimacy and permanence of an Islamic state and of Qur'anic edicts is at best a very limited project and at worst a way of legitimizing the Islamic legal, political, and moral framework. With respect to Islamic feminism, "it would thus seem rather naive to place too much hope in the 'internal' opposition to effect significant change in the conditions of women in Iran".

Another argument, made mostly against the academic supporters of Islamic feminism, has surfaced in a number of Iranian seminars and conferences, mainly on the part of left-wing expatriates who remain affiliated with proscribed political organizations and therefore have not traveled back to Iran since the revolution. They complain that proponents of Islamic feminists—insisting as they do on the need for fieldwork, empirical research, and direct experience in Iran—delegitimize the analyses and perspectives of exiles. As such, they effectively close off debate and silence the critics of social conditions, gender relations, and Islamic feminism in Iran.

The criticism of Islamic feminism is not limited to left-wing circles. Mahnaz Afkhami is a liberal feminist based in the Washington, D.C., area. Well known for her activism and eloquence, she was president of the Iran Women's Organization before the revolution; during much of the 1990s she was executive director of the Sisterhood is Global Institute, a transnational feminist network. Speaking for herself and several other Iranian feminists, she said, "Our difference with Islamic feminists is that we don't try to fit feminism in the Qur'an. We say that women have certain inalienable rights. The epistemology of Islam is contrary to women's rights. But you can use what you need to [to advance women's positions]. I call myself a Muslim and a feminist. I'm not an Islamic feminist—that's a contradiction in terms."

Islamic Feminism: An Assessment and Alternative View

The Iranian debate on Islamic feminism certainly reflects the fragmentation of the Iranian left in exile. But it is probably best understood as part of three broad and at times overlapping debates and political realities. The first pertains to Islamic fundamentalism,

including its origins, gender dynamics, and contradictions; the second to the IRI, including its gender regime and political evolution; and the third to the definition of feminism and the nature of women's movements around the world. In the interstices lies an ongoing debate within the expatriate Iranian left concerning the extent of reform possible within the Islamic Republic.

Fundamentalism, the Islamic Republic and Feminism

In the 1980s and 1990s, many of those who were grappling with the perplexing phenomenon of Islamic fundamentalism were Middle Eastern academic women (like myself) who were writing in North America and Europe. Politics and disciplinary training alike informed our approaches. We approached the problem of Islamic fundamentalism from a political position (whether socialist, feminist, or liberal), but we also sought to distance ourselves from Eurocentric and orientalist approaches. It was very important to refute orientalist charges that Islamic fundamentalism was the inevitable political expression of the Muslim world and to counter cultural relativist arguments that criticism of gender practices in non-Western cultures was inappropriate and an imposition of Western values. At the same time, many of us who were social scientists used our disciplinary tools to analyze relations, institutions, and processes in Muslim societies. Historical and comparative methods, for example, suggested similarities between Islamic fundamentalism in the Middle East at the end of the twentieth century and American Protestant fundamentalism in the early twentieth century. Both movements occurred in the context of the contradictions of modernity and modernization, including growing secularization and changes to family structure. (A difference between the two, of course, is that Islamic fundamentalism occurred in the regional context of Middle East politics, including the intractability of the Palestinian-Israeli problem, and the international context of economic recession and growing inequalities.) Scholars were also interested in the differences among Islamist movements (*e.g.*, Iran, Aghanistan, Turkey, Algeria) and in the evolution of political Islam. In the late 1990s, a consensus developed that the wave of movements for political Islam that had swept over the Middle East and North Africa was subsiding, although the legacy of Islamic fundamentalism remains to be fully understood.

A parallel and interrelated debate has centered on the evolution of the Islamic Republic in the 1990s. Has the regime shown a

capacity for reform? Is the IRI moving in a capitalistic, bourgeois direction that may augur legal reforms and changes in social relations (including gender relations and laws about women and the family)? Or is the Islamic Republic mired in a crisis that only complete systemic transformation can resolve? Again, Iranians have approached these questions both politically ("subjectively") and academically ("objectively"). Most of the expatriate oppositional press and some books highlight the political repression, violations of women's human rights, the archaic political system of clerical governance, and economic inefficiencies to insist on the impossibility of fundamental reform and change. Other publications have documented reforms in the political system, economic policy, and foreign policy and progress in the spheres of education and infrastructural development that have occurred since the late 1980s.

A third issue relevant to the debate on Islamic feminism pertains to the definition of feminism and the nature of women's movements world-wide. As two scholars have noted, "'Feminism' is a contested term even in the present, and historical literature is full of kinds of feminists who would surely have had a hard time finding common ground: Nazi feminists and Jewish feminists, Catholic feminists and Islamic feminists, socialist feminists and utopian feminists, social feminists and equity feminists, imperial feminists and national feminists". In this connection, a number of questions have been posed. Is "feminism" a Western ideology? What should women's rights movements and organizations that eschew the label *feminist* be called? Are those who promote the advancement of women de facto feminists? Is feminism defined and understood only through the writings and actions of Anglo-Americans? What of the writings and actions of feminists from developing countries? Can a more inclusive "global feminism" be developed that draws on the writings of scholars from around the world as well as from the activities of women's movements and organizations?

The debate on Islamic feminism is linked to the above three debates. We have seen how some Iranian feminists have shifted their focus from the unrelenting oppression of women in the IRI to an appreciation of resistance, empowerment, and change. It is in this context that they now analyze the activities of Iran's Islamic feminists, who have been responsible for some legal reforms beneficial to women in the Islamic Republic. In the opposite

camp, the detractors of Islamic feminism reject the possibilities for any improvements in women's conditions or any reform of the Islamist system in Iran. On the other hand, as we have seen with Moghissi, they can argue, rather inconsistently, that the clerical state has undertaken legal reforms as concessions to women activists but that the proponents of Islamic feminism exaggerate the potential of Islamic feminism. In general, the detractors of Islamic feminism refuse to concede the few successes that Islamic feminists have made in overturning some discriminatory policies that were adopted in the early years of Islamization, mainly in the areas of employment and education. As such, they essentially deny women's agency in the Islamic Republic. They also dismiss the reform movement in Iran, with which many of the Islamic feminists are associated, as unimportant or futile. Finally, they seem to define *feminism* essentially as Anglo-American radical feminism and appear to reject the idea of an emerging global feminism.

An Alternative Analysis

The vast gulf that exists between the two camps calls for an alternative analysis of Islamic feminism and of the debate. In my view, there can be no doubt of the importance of the writings and public pronouncements of "Islamic feminists" such as Sherkat, Taleghani, Faezeh Hashemi, and Jamileh Kadivar. *Zanan*, *Zan-e Rouz*, and the short-lived *Zan*, along with the secular feminist journals *Hoghough-e Zanan*, *Jenss-e Dovvom*, and *Negah-e Zanan* constitute a lively and widely read women's press, which has succeeded in making highly visible the "question of women." For example, in 1997 *Zanan* organized and reported on a roundtable discussion titled "What Are the Most Important Problems of Women in Iran?" Involving academic Farideh Farhi, lawyer Mehrangiz Kar, and reformist Abbas Abdi, the discussion touched on such issues as the reform movement in Iran, the limited nature of women's rights, and the need for the press to enjoy more freedoms. Another roundtable discussion by academics on the same subject expounded somewhat more moderate views. Here, Qolamabbas Tavassoli, Homa Zanjanizadeh, and Nassrin Mossafa emphasized the importance of the family and of ensuring that gender role changes do not disrupt the family. Clearly, the women's press, and especially *Zanan*, provide a forum for the articulation of diverse views, including those that are officially unpopular. As such, the women's press and those Islamic feminists associated

with it are playing an important role in broadening the discursive universe of the Islamic Republic and in expanding legal literacy and gender consciousness among their readership. Also noteworthy is that the Islamic feminists who run *Zanan* and *Farzaneh* publish the writings of secular feminists.

The rereading of the Islamic texts is a central project of Islamic feminists. Out of their own religious conviction, Sherkat, Behrouzi, Gorji, and the former cleric Sa'idzadeh (now defrocked) engage in new interpretations of Islamic texts in order to challenge laws and policies that are based on orthodox, literalist, or misogynist interpretations. Other Islamic feminists such as Faezeh Hashemi boldly insist on the need for women judges and on more equitable inheritance law. As such, Islamic feminists are addressing some of the fundamentals of Islamic doctrine and of the gender system in Iran.

Along with secular feminists, Islamic feminists seek to improve women's status within the family and thus to revise Islamic family law. They point out the injustice of those sections of Iran's civil code that result in women's inferior status and subordinate position in the family. They also engage in theological reinterpretation to support the view that genuine Islam, as opposed to patriarchal interpretations, holds women in esteem and calls for an egalitarian status for them within the family and in the society. *Zanan's* position is that men's headship of the household is a male construct and, like other male privileges attributed to Sharia laws, has its roots in the culture and customs of the time of revelation. As early as 1992, *Payam-e Hajjar*, published by Taleghani, had an article titled "Are Men Superior to Women?" that examined certain passages from the Qur'an that are usually interpreted as indicating men's dominion over women. The author, Zahra Ibrahimi, sought to argue otherwise, from an Islamic perspective. She offered a practical recommendation as well: "the legislators of the Islamic Republic . . . add an article to the civil code, stipulating that men do not have the right to beat women".

As a result of pressure from Islamic feminists, parliament and government bodies passed legislation to support working mothers, to allow unmarried women to study abroad, and to permit war widows to retain custody of their children and to receive financial compensation. The 1992 amendments to the divorce law enabled the court to place a monetary value on women's housework and

entitle her to *ujrat al-mithl* (wages in kind) for the work she did during marriage—provided, however, that divorce is not initiated by her or is not caused by any fault of hers. A law was passed in 1997 requiring that payment of the *mahr* (dower) be indexed to inflation, thus creating a disincentive for unilateral divorce by men. Islamic feminists drafted a bill that would provide for more equitable inheritance for women and men—though it was defeated by parliament in 1998. They have objected to the penal code for its discrimination against women, whereby the "blood money" of a woman is half that of a man. An increasingly larger number of women have run for and been elected to parliament and local councils.

Some Iranian feminists, notably the lawyer Shirin Ebadi, have been actively involved in the democratic struggle in Iran and engaged in political debates in both the women's press and the intellectual press. Among Ebadi's many activities is her role as legal counsel to the family of the murdered dissidents Daryoush Forouhar and Parvaneh Esfandiari-Forouhar. In a May 1999 interview in Stockholm, Ebadi spoke of "this challenge [in Iran] between modernity and orthodoxy, between a group that is after safeguarding traditions and the other one that is struggling for more freedom." She said that the most urgent need is "reforming the laws concerning people's freedoms in social, political, individual, and religious domains". In an article in *Jens-e Dovvom*, she describes the discriminatory laws women face, notes that the government of President Khatami has been unable to overturn them, but adds that his government at least has provided a more open atmosphere within which to discuss issues concerning women's equality, democracy, and modernity (Ebadi 1999). In a talk given to an Iranian expatriate gathering in London on March 11, 2000, Ebadi criticized the Islamic penal code, *Qessas*, and pointed to the ways that it both encouraged political killings and protected killers of those deemed anti-Islamic. It should be noted, too, that *Zanan* reported on the July 1999 assault against student protesters and boldly printed the image of a bloodied shirt on its front cover.

Independent and State Feminists

The Islamic discourse that Islamic feminists utilize is both genuine—an expression of their religious convictions—and a strategic attempt to acquire legitimacy that also serves to broaden the base of support for women's rights in the IRI. But to address

an issue raised by Moghissi: Who exactly may be deemed an "Islamic feminist"? Here it may be useful to identify some distinct groups. Independent feminists (*e.g.*, Sherkat and Ebadi) maintain a distance from the organs of state power and work closely with secular feminists such as Kar, the critic and publisher Shahla Lahiji, and sociologist Nahid Motiee, as well as expatriate Iranian feminists. Independent feminists and other women's rights activists revolve around *Zanan*, *Houghough-e Zanan*, and *Jens-e Dovvom*, among other examples of the women's press. State feminists are associated with government or parliament. In addition to having government or parliamentary positions (*e.g.*, Ebtekar, Shojai, Behrouzi, Gorji, Hashemi, Parvin Ma'arufi, Jaleh Jelodarzadeh), they may be involved with the establishment women's press (*e.g.*, Rahnavard's association with *Zan-e Rouz*, Ommi's association with the Islamic women's studies journal *Farzaneh*). State feminists appear to be to the right of the independent feminists on cultural and gender issues. Some, for example, stress the importance of the cohesion of the family, stating that motherhood and domesticity keep the family together and society morally upright.

What independent and state feminists have in common is their rereading of the Qu'ran, their determination to contribute to the feminization of the political process, and their campaign for the modernization of family law. Their position on political and economic issues remains unclear and undeveloped; they have not formulated perspectives on economic development, poverty elimination, the welfare state, or civil society.

Among both independent and state feminists in the IRI are believing women who seek to counter patriarchal religious interpretations and high-light egalitarian or woman-centered understandings. I am sympathetic to the discursive strategy of these Islamic feminists, but I am concerned about the focus on the "correct" reading of the Islamic texts. A reasonable concern is that, so long as Islamic feminists remain focused on theological arguments rather than socioeconomic and political questions, and so long as their point of reference is the Qur'an rather than universal standards, their impact will be limited at best. At worst, their strategy could reinforce the legitimacy of the Islamic system, help to reproduce it, and undermine secular alternatives. But this worst-case scenario very likely will not materialize, because most Islamic feminists combine their religious reinterpretations with a recognition of universal standards, such as the UN's Convention

on the Elimination of All Forms of Discrimination against Women (CEDAW). Nevertheless, it is indeed the case that Islamic feminists, and especially the state feminists, are situated within and firmly accept the legal framework, institutions, and discursive universe of Islam and the IRI. For example, Jamileh Kadivar—reformist, parliamentarian, and professor—staunchly defended "Islamic human rights" at a contentious conference in Berlin in early April 2000. A year earlier, however, she had incurred the wrath of conservatives by calling for an abrogation of men's right to unilateral divorce and polygamy. Such inconsistencies are common among Islamic feminists.

In some ways, Iran's Islamic feminists are not substantially different from liberal feminists, particularly those in the United States, who work within the existing political system and seek to improve women's positions though the discursive framework of liberal capitalism. Of course, the substance of their respective gender critiques is different, and they work within two entirely different political and legal environments. But both groups of feminists work within and maintain the legitimacy of their respective political systems. Shahidian has criticized Iran's Islamic feminists for their failure to take up such issues as homosexuality and personal autonomy. And yet, U.S. liberal feminists have not called for economic and political transformation. The demands for sexual rights and equal opportunities in education and employment are entirely compatible with the capitalist system. What liberal feminists have not called for is a change in the system of taxation and in development policy that would alter American foreign policy and the distribution of wealth, transforming the lives of low-income women in .the United States and elsewhere. In fact, one may suggest provocatively that those Islamic feminists who question the exclusive right of clerics and the *faqih* to interpret the Islamic texts and to define and implement Islamic jurisprudence are more subversive to the existing political system than are their U.S. liberal-feminist counterparts.

The analogy between Iran's Islamic feminists and liberal feminists in the United States has not been made elsewhere, although I believe it to be an apt one. Another pertinent argument, made by Tohidi, Najmabadi, Ne'mati, and others, concerns the parallels between the theological project of Iran's Islamic feminists and that of Christian feminists. But are they similar? Anne Sofie Roald explains the difference between them, and it suggests the

limitations of Islamic feminism in its present phase. Christian feminist theologians such as Rosemary Reuther, Phyllis Bird, and Elisabeth-Shussler Fiorenza "are part of an established scientific tradition within Christian theology". This historical-critical method allows them to "perceive the Bible as written by human beings and in particular by men". This is "an assumption which is not possible in an Islamic exegesis." Islamic feminist theologians seek to evaluate Islamic sources, criticize the patriarchal interpretation of Islamic sources, and stress the equality of men and women in the Qur'an. Their method "concentrates mainly on textual analysis and thus works methodologically in search of evidences to establish laws and regulations suitable for modern society". Roald concludes that "the interpretation of the Islamic sources by women is a new project and the next decades will show us whether this project has any future". In Iran, while some reformists argue for period-based interpretations of the Qur'an, most seek to high-light the egalitarian tendencies within it as a way to frame contemporary legislation. None so far has suggested the fallibility of the Qur'an.

It is, at any rate, very difficult to win theological arguments. There will always be competing interpretations of the religious texts, and the power of the social forces behind it determines the dominance of each interpretation. In this respect, I agree with Mojab on the limits of religious reinterpretation. Thus, although religious reform is salutary and necessary, it is important to acknowledge its limitations. Women's rights and human rights are best promoted and protected in an environment of secular thought and secular institutions, including a state that defends the rights of all its citizens irrespective of religious affiliation, and a civil society with strong organizations that can constitute a check on the state. I will return to this issue at the conclusion of this article.

Statements made and positions taken by some state feminists illustrate the promises and perils and the strengths and weaknesses of Islamic feminism. Ebtekar—cofounder of the women's studies journal *Farzaneh* and high-ranking official in the Khatami government—visited the Afghan city of Mazar-e-Sharif (before it fell to the Taliban) to speak to Afghan women. She assured them that "your sisters in the Islamic Republic are taking measures to establish Islamic human rights of women in the world which will contribute to the improvement of the status of women and provide progress in all areas for the Moslem communities around the

world. But what are Islamic human rights? How do they differ from rights enshrined in the Universal Declaration of Human Rights or in CEDAW—both of which were drafted by persons from various national, cultural, and religious backgrounds? What are the rights of minorities, and in what ways can there be equality for all citizens, in an Islamic legal system that is premised on differences between men and women and between Muslims and non-Muslims?

Faezeh Hashemi, daughter of the former president Ali Akbar Hashemi-Rafsanjani, is an outspoken advocate of women's rights, especially the right of women and girls to engage in athletics. A member of the past parliament, she had been an extremely popular candidate, winning one million votes. (She lost her seat in the February 2000 elections.) In a remarkable act, she marched in solidarity with students during the July 1999 protests. In Rakhshan Bani-Etemad's film within a film *Banoo-Ye Ordibehesht* (The May lady), she boldly states that the problems of women in Iran result from the fact that all the judges are men and that there are no women judges in Iran. In a 1997 interview she stated that "we generally agree that the role of women on the Iranian political scene has improved in the last years but still there are some basic problems such as an Iranian female official cannot leave the country without her husband's permission. Is this not a basic obstacle to the basic right of a woman, whether official or non-official?" In response to a question about national reconciliation, she was adamant that all Iranians regardless of political views had a place in the country and its system: "I think the Iranian people belong to Iran and live in Iran and tolerated all the problems in the last 17 years and even went to the war-fronts. Even though they might not have even been a Muslim or a Hezbullah, they might have only done that due to their national sentiments and due to their love for their country".

That she is a defender of the existing political system, albeit of its reformist wing, is evident. In the same interview, Hashemi continues,

> They should still be respected as a resident as long as they do not act outside the legal framework. We have a constitution and this constitution has set freedom for them and as long as the law is respected, the government should also respect them. The law must confront illegalities. No social strata should be put under pressure just because one day they might do

> something wrong. I respect all the people in Iran, regardless of their ideologies. For me there is no difference. An administration can only be successful when this national unity is maintained, if not then the administration itself will be the first victim.

On the issue of veiling, she is adamant, if contradictory. Referring to Turkey, she said, "I think that unfortunately in some countries Western norms are imposed on women. Hijab is an indisputable symbol for Muslim women. Muslim women should not be deprived. Although Turkey is an Islamic country, women are thrown out of universities because of Hijab". She makes no reference to the fact that in Iran veiling is compulsory rather than a freely chosen mode of dress or expression of identity. Nor does she refer to the fact that Iran's constitutional provisions on freedom of association and on the prohibition of torture have been routinely and systematically violated over the years. Subsequently, Hashemi changed her views on veiling. In the run-up to the parliamentary elections of February 2000, she declared that *hejab* should be voluntary and not mandatory. This was the boldest challenge yet to religious orthodoxy, state policy, and patriarchal norms.

Hashemi and other Islamic feminists sometimes refer to the goals of democracy, civil society, and equality for women and religious minorities. However, to the extent that they raise these issues, their discussion of them tends to be very general and nonthreatening. In fact, Iran's constitution—as well as its family law and penal law, both based on the Shariat—will have to undergo complete revision, if those objectives are to be achieved. Moreover, the building of civil society calls for a specific kind of state, Civil society presupposes a state that enforces universal legal norms and guarantees protection of civil and human rights regardless of gender, religion, ethnicity, and class. An Islamic state cannot and will not undertake this because it defines citizenship rights on the basis of sex and religion.

Conclusion: Toward Civil Society and Global Feminism

Does Islamic feminism challenge or reinforce the fusion of religion and politics/law? Najmabadi celebrates *Zanan* for its receptivity to non-Islamic writers, which she sees as blurring the divide between religious and secular thought. And yet there is a need for separation of mosque and state, for a secular political system, and for a deepening of secular thought, even though there

are different paths to and models of secularism and Iran will have to develop its own.

The efforts of believing women of the monotheistic faiths to subject their religious texts to a feminist rereading, or to locate and emphasize the women-friendly and egalitarian precepts within their religious texts, are to be supported. This is a legitimate and historically necessary strategy to improve the status of women and to modernize religious thought. In this respect, my position is different from that of Moghissi and Shahidian, who dismiss feminist theology and deny its wider implications. And yet, one cannot insist, as some Islamic reformists do, that the Islamic arguments are the only ones that matter and that change will occur only as a result of the reform movement within Islam. Islam in Iran may be experiencing a kind of Reformation, but what will be equally if not more important for long-term social change in Iran (and elsewhere in the Muslim world) is an Enlightenment. As such, the contributions of nonreligious thinkers and activists, whether inside or outside Iran, will continue the process of democratization and building of civil society that was initiated by the Constitutional Revolution earlier in this century. In any event, it is clear that despite the changes of the I990s, the IRI is mired in a political, economic, and cultural crisis that will only be overcome by major changes to its system of governance. The continuing battle between conservatives and reformists (including Islamic feminists) attests to this.

What are some elements of a system of governance and a legal system that could ensure greater social, gender, religious, and ethnic equality? Some of these changes have been suggested by certain intellectuals within the reform movement. Here I will offer some needed changes from a secular feminist (Marxist-feminist) perspective. Religious doctrine should not be the basis of laws, policies, or institutions. Iran's constitution (or any other constitution) should not state that "Islam [or Christianity or Judaism or Hinduism] is the official [or state or national] religion." Family law should not derive from religious texts, whether in Iran or in Israel. Blasphemy laws should be removed, and religion should be the subject of historical and critical inquiry. All citizens should be equal before the law, with equal rights and obligations. Civil, political, and social rights of citizens should be protected by the state and by the institutions of civil society. This includes worker participation in decision making and an active role for independent

unions, professional associations, citizen groups, and so on. It should be noted that Islam, like other monotheistic religions, does have humane, compassionate, and egalitarian aspects. These may *inspire* civil codes, political processes, social policies, and economic institutions. For example, the social justice foundations of religious thought represent an important balance to the harsh discipline of the capitalist market. The ban on usury in Islam and Catholicism is in conflict with capitalism's creation of wealth through nonproductive financial transactions and speculation, and this, to my mind, is progressive and should be emphasized. Religious belief should be respected, and religious institutions should have a place in civil society, but religion should not dominate the state and the law.

I end by asking whether Islamic feminism is indeed feminism. Is Islamic feminism an indigenous alternative to secular or Western-inspired feminism? Is it an oxymoron, a contradiction in terms? Or is it part of the already diversified and colorful spectrum of the transnational women's movement and a contributor to a "global feminism"? There is no question that Islamic feminists have been inspired by the writings and collective action of feminists from the West and the third world. Any reading of the women's press in Iran reveals that Iranian women activists and scholars, including those who define themselves as Muslim or Islamic and eschew the label "feminist," engage with transnational feminism. In a thought-provoking book, Patricia Misciagno argues for a "bottom-up" or materialist approach to feminist identity that hinges on women's praxis rather than their ideology. She defines "de facto feminist praxis" as "activity that runs counter to the ideology of patriarchy, even while not directly addressing the issue of patriarchy as an ideology". Similarly, Leila Rupp and Verta Taylor note that "a concentration solely on ideas ignores the fact that feminists are social movement actors situated in an organizational and movement context". Their historical study shows that "the meaning of feminism has changed over time and from place to place and is often disputed." They emphasize the need to understand "what women (or men) in a specific historical location believed" but also "how they constructed, sometimes through conflict with one another, a sense of togetherness". Feminist disputes, they argue, "take place within a social movement community that, as it evolves, encompasses those who see gender as a major category of analysis, who critique female disadvantage,

and who work to improve women's situations." They conclude by asserting that "in every group, in every place, at every time, the meaning of 'feminism' is worked out in the course of being and doing".

The above analysis sheds light on our question and points the way toward a resolution of the debate on Islamic feminism. For if feminism has always been contested, if feminists should be defined by their praxis rather than by a strict ideology, and if a feminist politics is shaped by its specific historical, political, and cultural contexts, then it should be possible to identify Islamic feminism as one feminism among many. Indeed, in my view, it is not particularly useful to create absolute boundaries between Islamic feminism, Western feminism, Latin American feminism, African feminism, Jewish feminism, and so on. In the same way that liberal, socialist, Marxist, radical, cultural, and postmodern feminisms (not to mention equality and difference feminisms, and first-and second-wave feminisms) are part of the feminist tradition, so are the various regional manifestations part of the evolving political philosophy of feminism and the social movement of women. At the beginning of the new millennium what appears to be emerging is a global women's movement and a philosophy that not only draws on the feminist "classics" but also reflects the social realities and concerns of women in various parts of the world. To a very great extent, the Beijing Platform for Action, adopted at the end of the Fourth World Conference on Women in September 1995, is a manifesto of the global women's movement. It describes the problems facing the vast majority of the women of the world and prescribes a set of actions to solve the problems involving government, international agencies, nongovernmental organizations, and the women's movement. That the Platform for Action was finally agreed on by governments and women's organizations after many disagreements confirms the multifaceted nature of global feminism and the capacity of the world's women to overcome some ideological and class differences and agree on measures necessary for women's equality and empowerment.

Feminism is a theoretical perspective and a practice that criticizes social and gender inequalities, aims at women's empowerment, and seeks to transform knowledge—and in some interpretations, to transform socioeconomic structures, political power, and international relations. Women, and not religion, should

be at the center of that theory and practice. It is not possible to defend as feminist the view that woman can attain equal status only in the context of Islam. This is a fundamentalist view, not one compatible with feminism. And yet, around the world there will be different strategies that women will pursue toward empowerment and transformation. We are still grappling with understanding and theorizing those diverse political strategies. In light of this, it serves no purpose to insist on a narrow definition of feminism, as Moghissi and Shahidian appear to do. And when one recalls the difficult period that the Iranian left went through after the Revolution, when disunity and fragmentation reigned, it seems obvious that harsh attacks and denunciations of some feminists by other feminists is hardly the way forward. This can only impede rather than contribute to dialogue, knowledge, coalition building, and collective action.

2

Politics and Feminism in Islam

> The gender question should be reexamined, as the gender revolution was intended in Islam but never took off. It was aborted arguably for two reasons: a) mainstream Islam turned royalist from the Ummayids [first ruling Islamic dynasty] onwards, and the harem developed and became more secluded as a more aristocratic version of Islam developed, and b) the doors of ijtihad [intellectual effort] closed and the gender revolution was thereby aborted.
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> – Mazrui 1993,533.

> We strongly affirm that feminism strives for the broadest and deepest development of society and human beings free of *all* systems of domination.
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> – Sen and Grown 1987, 19

Recent ideological shifts in Western capitalist countries have impelled many Muslim intellectuals to examine the discourses of feminism and human rights in the Islamic world and explore indigenous models of emancipation for the masses in general and women in particular. While the widely held assumption that women have been historically persecuted by all patriarchal cultures is, to a large extent, incontestably true, the discourses of Western feminism, largely shaped by gender relations in Christian capitalist cultures and by the exhausted paradigms of Western social thought, have hindered a more subtle appreciation of women's issues under

Islam. This is because "the relationship between Islamism and 'women's rights' is often presented in an unusually heated environment" a situation that leads to "short cuts in analysis". Describing the current Islamic resurgence as a strategic component in the South's (Third World) attempt to contest Western hegemony in the domains of culture and ideology, Burgat is rather suspicious of "the ideological repositioning of the South [and its confinement] into the analytical ghetto of 'misogyny,' or with even less nuance, an 'apartheid' which is erected as a central and absolute principle 'explaining' the [Islamist] phenomenon". Indeed, the rather vociferous discourses of Western feminism and human rights have far-reaching consequences for Muslim peoples, especially as "the social status of women constitutes one of the terrains on which the invasion of Western references has disturbed the dynamic of the internal normative evolution of the universe of Islam". While one must expose Islamist ideologies to rigorous criticism and categorically reject all coercive and intolerant practices espoused in the name of religion, the recovery of a long-obfuscated egalitarian Islam together with an effort to reconceptualize a progressive Islam for the future are necessary undertakings if one is to go beyond a negative critique of homogenized Islamic cultures and rethink a possible indigenous path to women's emancipation.

In this article I argue that a critical redefinition and a thorough reassessment of Islamic traditions, including contesting several entrenched but Islamically questionable assumptions about women, are the proper platform on which to conduct dialogues and movements of liberation in the Islamic world today. Islamic societies are products of history; they bear the imprints of time and change. To rely uncritically on old canonical documents as the foundation of a new Islamic revival would run counter to the best tendencies in Islamic intellectual history. In fact, even certain aspects of the Prophet's life have not always been translated into general practice among Muslims. After carefully studying the Prophet Mohammed's relationships with women, and implying that his marriage to the six-year-old 'Aisha (consummated when the bride was nine) has not set a legal precedent in Islamic countries, Leila Ahmed wonders "whether the religion is to be allowed to remain permanently locked into replicating the outer forms of the specific society into which it was revealed, or whether the true pursuit and fulfillment of the Islamic message entails, on the contrary, the gradual abandonment of laws necessary in its first age". Although the answer to such a proposition should be fairly simple (at least to

progressive elements within the Islamic tradition), a practical solution has remained dauntingly elusive, especially as Islam evolved from an initial phase of tolerance to the gradual marginalization of women and their enclosure in the dark world of a theologically illegitimate patriarchy. This debilitating climate of oppression needs to be shattered through a revolutionary understanding of Islam and the restoration of "early Sufi and Qarmati thought," long eclipsed by a conservative, male-dominated clerical Islam. Only through the retrieval of this emancipatory tradition, Ahmed convincingly argues, would Muslim women "not be compelled to make the intolerable choice between religious belief and their own autonomy and self-affirmation".

Yet as problematic as clerical Islam are the ideologically suspect discourses of unexamined Western social science theories. Marnia Lazreg (1988) has clearly demonstrated the bankruptcy of exhausted paradigms for interpreting the Middle Eastern and North African worlds and criticized both U.S. and "Eastern" feminists for failing to represent the heterogeneity and complexity of Arab societies. Not only do U.S. feminists often assume that in order for Arab women to become real feminists they must dissociate themselves from Arab men and their own culture, but their attitude is often informed by an unmistakable bias against Islam. Indeed, many Arab women become complicitous allies in propagating this reductionist interpretation of their societies; passing for social criticism, their "personal confessions" are often given a conspicuous forum in the West, even while these Arab women themselves are transformed into representatives for the millions of women on whose behalf they were never allowed to speak. The fetishization of Islam, Lazreg explains, obscures "the living reality of the women and men subsumed under it" and erases "the socioeconomic and political context within which it unfolds". Hence, a contrapuntal reading (to use Edward Said's recently popularized metaphor for keeping the dialectical formations of cultural consciousness firmly in mind at all times) of the feminist project in Islam seems to be indispensable if one is not to isolate any analysis from the global currents that both inform it and could, in turn, be influenced by it.

Since neither global capitalism nor a male-dominated and historically entrenched version of Islam is conducive to a genuinely liberating Islamic culture, the feminist project is challenged with the monumental task of contesting both orthodoxies simultaneously

and dialectically. The feminist question in Islam is necessarily implicated in the crosscurrents of several contestatory discourses and ideologies, including women versus the patriarchy within Islamic communities, the secular West versus Islam, why certain forms of Islam are politically more acceptable to the West than others, the specificity of the Islamic feminist project, and the various ideological tendencies within Islamic thought itself. Therefore, a careful articulation of an Islamically progressive agenda—democratic, anti-patriarchal, and anti-imperialist—might provide the impetus for a new revolutionary paradigm. This new Islamic consciousness, firmly rooted in usable traditions but uncompromisingly universal in outlook, can redefine the very meaning of Islam without abandoning the parameters of the faith. Syncretically arranged and engaged in permanent dialogue with the progressive agendas of other cultures, its ultimate goal is a culturally "polycentric" world (to use Samir Amin's expression) founded on economic socialism and gender equality. This conception of Islam alone is capable of legitimizing feminism in the Islamic world by posing a formidable challenge for clerical, orthodox Islam, which has stubbornly refused to extend more freedoms to women and minorities.

Indeed, it is in response to this new threat and the tenuous position of *clerical* Islamic (neocolonial) regimes that Western governments have resorted to the discourses of democracy and human rights (especially the rights of women) to contain the liberating possibilities of cultural alternatives. For, as I will argue, the West's promotion of human rights in the Third World is a strategy whose final aim is to stabilize political entities to facilitate the free circulation of goods and services. The U.S. policy of "low-intensity democracy" aims at creating a polyarchy that oversees "formal democratic institutions" able to channel people's grievances and "diffuse the sharpest social tensions". It surely needs no repeating that the existing global capitalist system has no intention of reducing poverty or creating a more humane and egalitarian civilization. Because capitalism is structurally incapable of creating equality, committed feminists must look beyond mere reformism and toward radically different, indigenous, and pluralistic alternatives. A progressive Islam, empowered by the equal status and dynamic contributions of women and extending full rights to minorities, is therefore one way to break away from Eurocentric structures and redynamize progressive non-Western traditions in a genuinely multicultural world.

The West's crusade against Islam has been joined by Westernized Muslim writers such as Tahar ben Jelloun, Driss Chraibi, and the Indian-born Salman Rushdie, who have all attempted to depict Islam as a reactionary force that has set back or destroyed the freedoms of women and writers and eclipsed the traditions of non-Arab peoples. Such claims have proven to be controversial, lucrative, and reflective of the writer's entrapment in mainstream Western perceptions of Islam. Ben Jelloun's treatment of gender in *The Sand Child* and *The Sacred Night*, for instance, earned him the prestigious Goncourt literary prize and persuaded American publishers to make his fiction available to English-speaking readers for the first time. The novels are about gender repression and sexual mutilation in an obdurately unenlightened Islamic society. In *The Sand Child*, Hajji Ahmad Suleyman, an aging patriarch with seven daughters, in an attempt to save his honor and protect the inheritance of his children from his two scheming brothers, decides that his next newborn will be a boy, regardless of the actual sex of the baby. His name will be Ahmed. A daughter is then born into this fate, at a time of nationalist struggle for independence, suggesting that the anticolonial resistance is informed by a strong patriarchal ideology. The boy's circumcision is faked, and as the girl begins to reach puberty her chest is "bandaged with white linen, pulling the bands of cloth so tight that [she] could hardly breathe. It was absolutely vital that no breasts should appear". Ahmed goes through all sorts of social contortions to hide her femininity (including a fake marriage) before she lifts the veil on her true identity and enters yet another universe of violent repression.

Ben Jelloun's improbable tale of the grotesque would seem to confirm the West's suspicion that Islam is hostile to women and inhospitable to their demands for change and freedom. In fact, John Erickson has stated that "nowhere in Maghrebian literature is the problem of sexuality more graphically explored, with all of its ties to much more extended social and political problems, and linked more indissolubly with literary revolt" than in *The Sand Child*. Ben Jelloun, according to Erickson, sets out to undermine the "structuring values in Islamic societies". It is true that Ben Jelloun would have liked his female protagonist to be "held back by no religion" and to move freely from "myth to myth"; however, as a longtime resident of France, the author knows that immigration to the West is not necessarily a solution for the oppressed and

persecuted girl. Indeed, his later novel *Les yeux baisses* does problematize the migration of a Berber girl from a High Atlas village to Paris, presenting an even bleaker picture of the predicament of Muslim women within existing global arrangements. Fleeing her old, murderous aunt, the young Moroccan woman finds little relief in the gray, cold, noisy, and crowded French metropolis, where she joins her immigrant father. She awakens to her sexuality and begins to flirt with a handsome Portuguese boy, but she also loses her religious convictions and is shocked by her discovery of anti-Arab racism. Unable to return to the confining village culture she left behind and condemned to remain the Other in France, the young girl struggles throughout the novel to construct a positive identity, her eyes downcast ("les yeux baisses") mostly out of oppression, not respect. The net of oppression has been enlarged to include the cruelties of tradition, state neglect, immigration, and the damaging legacy of colonialism. Ben Jelloun's "veiled narrative" enables him, however, to avoid closure, leaving the predicament of Muslim women unsettlingly suspended.

I cite the case of Ben Jelloun's recent fiction to illustrate the complex impact feminism has had on certain Muslim novelists. Are women to be given their rightful place in the canon only if Islam is depicted in the broadest orientalist strokes? Is it possible to champion women's rights while simultaneously extricating progressive Islam from the deadwood of orthodoxy and the biased interpretations of much of Western scholarship? Islam has been used in so many contradictory ways that one cannot accept, as both orthodox jurists and orientalists have, a monolithic definition of this religion. (Said has warned us against this repeatedly.) During the Arab world's struggle for independence, for instance, the nationalist bourgeoisie used Islam to rally the masses for the liberation of their occupied land and to preserve capitalism (or, in other instances, state socialism). This form of Islam was obviously infused with a patriarchal spirit (a problem that has afflicted many a revolutionary movement in the twentieth century), although its anti-imperialist thrust was unmistakably liberating. And it was imperialism that, paradoxically, "created the objective basis for both the development of women's struggles and the integration of women into the more general national struggle against colonialism". But if women were temporarily liberated from the shackles of a stifling Islamic orthodoxy by imperialism, they were

eventually recontained by a new Islamic consciousness that refused to grant them more rights, despite their heroic struggle to preserve the sanctity of Islam itself. The new nationalist regimes were thus ensnared by more contradictions, for they had copied the colonial model of the nation-state, subscribed to a multitude of international organizations controlled by former colonialists, and accepted their neocolonial status, while perpetuating a stagnant, apolitical, and mostly reactionary version of Islam. Such a complicated situation, with a variety of discourses (some legitimized by the state to suit its needs), has made an accurate reading of the Islamic sociopolitical context difficult and can be approached only from a dialectical position that recognizes the specificity and historicity of Islamic cultures and the impact of global capitalism on them.

The prominent feminist sociologist Fatima Mernissi, however, has accepted the capitalist model of human relations; she goes beyond the cautionary approach and indeterminate position of Ben Jelloun's fiction to argue quite forcefully for a bourgeois notion of democracy and individual liberties as the foundations for any Arab nation that aspires to genuine sovereignty and development. Mernissi agrees that the situation of women in Morocco must be understood in relation to both the cataclysmic changes affecting that country and the redistribution of social space in it, and she keeps the distinct histories of West and East firmly in mind, especially those regarding the treatment of women. She also understands that colonialism has had the unintended effect of retarding the legitimate struggle of women by subsuming it in an uncritical Islamic ideology of resistance. In the final analysis, however, Mernissi is clearly in favor of a United Nations definition of human rights and democracy. In *La peur-modernite,* she repeats the familiar orientalist thesis that only a secular modernity would be able to lift Arabs from their long and deadly paralysis, although she avoids blaming Islam itself. She even admits that Islam is the "symbolic capital" of the wretched and the voice of the proletariat in the struggle against the beneficiaries of international capitalism (in the modern Arab state poor children go to the Qur'anic school, while the children of the upper classes attend kindergarten). Thus, as has always been true, the oppressed derive from Islam a powerfully inspiring impulse for justice. Yet Mernissi dismisses this Islamic legacy as dated in the contemporary era and suggests, instead, that it must give way to a secular civil society, democratically organized, that protects individual freedoms. For

the lack of democracy leads to a host of social ills, including immigration to the "very paradoxical" West.

Mernissi's reflections on the position of women throughout much of Islamic history imply that democracy and individual freedoms were abolished with the advent of Islam, when the Prophet Mohammed destroyed polytheism in Mecca and replaced it with an uncompromising (but benevolent) monotheism. Describing democracy as a form of *shirk* (disbelief through associating another deity with Allah), she calls for the reestablishment of the culture of polytheism that had reigned in Arabia in the pre-Islamic period and thus, in a striking parallel with Rushdie's *Satanic Verses*, redefines the *Jahiliya* (the pre-Islamic period; literally, the time of ignorance) as an exciting era of discussion and human rights. According to Mernissi's metaphor, Muslims are on a crusade to veil anything that threatens their faith, whether it be Western democracy, history (associated here with polytheism and powerful goddesses), or simply any form of change. Islam is depicted as fundamentally antihistorical and antifeminist, a religion that has totally eradicated the *Jahiliya* from consciousness. In fact, Islam has even launched the new patriarchal calendar of the *Hijra* which, like the Qur'anic school, has relevance only to those who are poor and abide by the faith; for it is Western time that regulates transactions in the global village. Mernissi still (intuitively) believes in an Arab takeoff and criticizes the West's essentialization of Muslim women despite their remarkable accomplishments in the past few decades. However, her methodology desacralizes the Qur'an by reducing it to a mere historical document in *Le harem politique*, showing that it was produced in a series of human negotiations in which God always intervened—rather diplomatically—on behalf of the Prophet. For her, adopting secularism means further demystifying the transcendental process of revelation and solving all social issues through the powers of human agency, not by an uncritical resort to the male-constructed texts of Islam.

Mernissi's rereading of Islamic history—a project she considers necessary to demystify the regnant but dubious misogynist myths—can be remarkably perceptive and invigorating. If parliaments in Islamic countries are harems that exclude women from any meaningful political participation and that allow men to decide the fate of women, their roots are in the beginnings of the caliphal state, legitimized by the aristocratic principle of *bay'a* (pledge of allegiance), in which the caliph is "veiled" from the

people he governs, the *'amma* (a rather derogatory word for the masses of people, akin to what the French call "le petit peuple"). Through brilliant etymological connections, Mernissi stretches the symbolism of the veil to include the realm of politics, demonstrating with astonishing perspicacity the erosion of political freedoms with the consolidation of the early empires based on ethnic and gender exclusions. (Arabhood and maleness were initially indispensable criteria for the position of caliph, but while the Arabhood requirement would eventually be contested, the criterion of maleness never was.)

The caliphal state (symbolized by the Friday sermon [*khoṭba*] and the inscription of the name of the caliph on coins) was thus to become an exclusively masculine domain, although women were allowed to rule in specific instances. However, this practice contradicted the Prophet's insistence on converting the mosque—outside of prayer time—into a democratic, public space and using the Friday *khotba* as a sort of brief public report on the affairs of the state. With the advent of the caliphal state, this mosque-based popular democracy was gradually drained of its content and transformed into an oppressive institution for women, who were—in clear violation of the Prophet's practice—discouraged from attending mosques. Closing the mosque and veiling women therefore amount to closing the political arena to democratic participation and veiling resistance to authoritarianism. Restoring women to the political arena thus becomes the necessary condition for restoring the long-eclipsed democratic spirit to Islam.

While Mernissi's reinterpretation of Islamic history does indeed challenge the unimaginative, orthodox stranglehold of the still-powerful *'ulama* (religious scholars), she, like the male elites she questions, remains conspicuously silent on the bases of power in the late twentieth century. If the *'ulama* are the coopted intellectuals of feudal, patriarchal regimes in the Islamic world, late capitalism has created its own set of privileged intellectuals and theories, which, I contend, have not been sufficiently examined by Muslim feminists or Western scholars writing on feminism in the Islamic world. When Mervat Hatem, after surveying scholarship on Middle Eastern women, called Mernissi "very weak" because of her "largely unsuccessful" attempt to link "the textual with the historical" and "the sexual with the economic", she should have specified the context she was referring to, since Mernissi is, in fact, quite capable of historicizing Islamic texts. Mernissi's failure to understand "the material and social systems of particular epochs" is less likely an

ideological strategy (as is the case with the *'ulama*, who obfuscate meanings to marginalize women) than the result of the enormous task of conceptualizing a method for examining the various interlocking factors of oppression synchronically. For Hatem, such a method should be able to account for gender within a Marxist reading of social formations. And while Mernissi has strategically fought for the integration of women into a more democratized political process, it is now equally crucial to move beyond the false essentialization of women as ideologically neutral and examine the ways socio-economic systems enhance or reduce the freedoms of both sexes in an increasingly globalized environment.

The struggle in the Islamic world today is, in fact, over democratizing decision making and wresting the state from the hands of regimes that have ossified religion and turned it into a tool of political control. Even the Islamic movements that now openly challenge the legitimacy of the state do not seem to object to democratic political structures, provided that they do not hinder the application of Islam. In other words, despite their lack of clearly articulated readings of canonical texts and the history of Islamic societies generally, and their inability to outline a coherent vision of the future, many revivalist movements share the same general aspirations of liberating Muslim people from the dependencies imposed on them in the modern period. The widespread fear that Islam cannot open genuine spaces for democratic practice cannot be justified by historical precedent. Mernissi herself has shown—despite her occasional privileging of the pre-Islamic period—that a popular form of mosque-centered democracy existed during the Prophet's time and that it was the caliphal political system that violated the early Islamic principles. Hence, depending on how it is done, and from which ideological perspective, the recovery of an Islamic past, thoroughly cleansed of the residue of centuries of male-dominated interpretations, can be useful to women fighting for freedom in the Islamic world. Some of the feminists mentioned in this article (such as Mernissi) have already taken the step of dusting off the pages of history, and it is now the task of other Muslim and socialist feminists to build on these monumental efforts.

Nawal El Saadawi's feminist and "contrapuntal" critique of Arab patriarchy was, in fact, remarkably comprehensive almost two decades ago, when she subjected all grand narratives to uncompromising critique without using the mantle of "culture" to

disguise distinct power relations: imperialists are imperialists, and pathological Muslim men who find satisfaction in the mutilation of women's bodies are just that (see El Saadawi 1980). Like Mernissi, she implies that the orthodox version of Islam enshrined in the *Shariá* has curtailed the freedoms and power enjoyed by women during not only the pre-Islamic period *(Jahiliya)* but also the early stages of Islam, when women like 'Aisha, the youngest of the Prophet's wives, exercised a high degree of authority and independence. Undoubtedly, legalized clerical Islam privileged the male through the sanction of men's polygamy and the insistence on women's monogamy (which could mean the legalization of prostitution for the benefit of men). It also adopted some Christian motifs, such as the separation of body and soul, which El Saadawi views as one of the greatest afflictions of the human race, for it associates sexuality with sinfulness and tends, as in Christianity, to emphasize a cult of virginity that not infrequently leads to frigidity. Women have thus come to be associated with *fitna* (chaos) and pleasure, which are "contradictory, and in terms of logic, mutually exclusive conceptions", but which seem to have conditioned Arab men's ambiguous attitude and inhibited their adequate examination of the tragedy of women in their cultures. The Arab man's honor, as Ben Jelloun dramatically illustrates in *The Sand Child* and *The Sacred Night*, still depends on the compliance and domination of women, although the patriarchal family is increasingly weakened by the modern state, which renders many precolonial practices and other concepts of honor impractical.

El Saadawi's indictment of the unholy global alliance of Western imperialism and reactionary Islamic jurisprudence and customs to maintain the inferior status of women is, however, complex enough to allow for a progressive and recuperable Islamic agenda. She calls on Western feminists to understand that "in underdeveloped countries, liberation from foreign domination often still remains the crucial issue" and that women in the Arab world are more interested in it than in freedom of speech and belief, "male chauvinism," or copying the social models of affluent Western societies: "In its essence, the struggle which is now being fought seeks to ensure that the Arab peoples take possession of their economic potential and resources, and of their scientific and cultural heritage so that they can develop whatever they have to the maximum and rid themselves once and for all of the control and domination exercised by foreign capitalist interests. They seek

to build a free society with equal rights for all and to abolish the injustices and oppression of systems based on class and patriarchal privilege". Thus, El Saadawi took the unfashionable stance of seeing the Islamic revolution in Iran as essentially liberating and as reminiscent of an "early Islam [that] laid the first foundations of what might be called Primitive Socialism," which would later be eclipsed by a successive line of rulers, beginning with "Osman Ibn Affan, the Third caliph of the Muslims and head of the Ommayad dynasty in Damascus" and ending with American imperialism and its agents in the Arab world. Given El Saadawi's insistence on preserving Arab people's "cultural heritage" free of the deculturing tendencies of capitalism, she calls for (and applies) a methodology that would "visualize the links between the political, economic and social remoulding of society, and the cultural, moral, psychological, sexual and affective remoulding of the human being". It is not possible, El Saadawi argues, "to separate the sexual and emotional life of people, and their economic life," for "any separation is artificial and will lead to ideas that are incomplete, shallow and distorted".

An example of the shallow debate that has characterized the question of feminism in Islam is the issue of the veil as a token of women's repression. For the Western media, the picture of the veiled woman visually defines both the mystery of Islamic culture and its backwardness. Despite its close association with Islam, the veil is in fact an old eastern Mediterranean practice that was assimilated by Islam in its early stages of expansion. In the two suras in the Qur'an that refer to the veil, not only is there no specific mention of veiling the face but certain parts of the body in fact are assumed to be visible. Women in pre-and early Islamic Arabia actively contributed to social and economic life, and only through the gradual absorption of other civilizations into the world of Islam was the "ethical vision" of the new religion—a vision that is "stubbornly egalitarian, including with respect to the sexes"—gradually eclipsed. From the birth of Islam in Arabia to the rise of the Abbasids, the position of women seemed negotiable; however, as Islam expanded, non-Arab prejudices against women were written into Islamic law (many theologians who later developed and interpreted the *Shari'a* were of non-Arab stock and the egalitarian message of early Islam was conveniently forgotten. It was this "legal and social vision of establishment Islam [that] gave precedence to women's obligations to be wives and mothers". Even the few misogynist elements in the *hadith* (sayings attributed

to the Prophet) may have been influenced by Muslims' contact with Christian asceticism, especially since Islam, unlike the belief widespread in Christendom for so long, never asserted that "women have no soul". Because it was the ancient Middle East and not Arabian customs and early Islamic practices that provided the prototype for harems adopted by the Abbasids and later dynasties, Leila Ahmed strongly suggests that had the earlier "ethical voice" been heard, "it would have significantly tempered the extreme androcentric bias of the law, and we might today have a far more humane and egalitarian law regarding women".

Still, the erosion of women's rights, enforced by a male-constructed law, did not silence or immobilize women entirely; nor were men equally content with the subordinate status of their female partners. Mernissi has written an entire book about women who managed to rise to political leadership despite the odds against them, and Ibn Battuta, the renowned Moroccan traveler from Tangier, was impressed by the large number of women who still attended prayers in the mosque when he was in Shiraz. Indeed, Afsaneh Najmabadi (1993) has convincingly demonstrated that many Iranian women (especially those from the upper class) were learned and cultured well into the modern period and that the image of premodern Iranian women as illiterate and silent (because veiled) is a modernist distortion of traditional women's real lives. Because the orality of premodern culture required a homosocial setting where no male presence was allowed, Muslim women told their own uncensored stories, completely unconcerned with the prudish repressive values that were later ushered in with modernity. Muslim women in Islamic Spain of the eleventh and twelfth centuries (who were admittedly freer than their counterparts in the East) displayed an astonishing measure of erotic freedom in their public poems and their own personal lifestyles. Even the premodern veiled women of polygamous harems were both sexually and economically freer than their European contemporaries. When Lady Mary Wortley Montagu traveled to Turkey in the eighteenth century, she wrote that she "never saw a country where women may enjoy so much liberty, and free from all reproach as in Turkey".

Indeed, as late as the nineteenth century, English women continued to report on the superiority of Turkish women in almost every sphere of social life, including hygiene, economics, and legal rights. In her *Women of Turkey, and Their Folklore*, the first complete

ethnographic study of women in the Middle East, Mary Lucy Garnet praised Muslim women and launched a bitter attack on Christian misogyny, "the Liberal state," and "the movement for universal suffrage"; she even made an astonishing critique of John Stuart Mill, who, in his *Subjection of Women,* failed to distinguish among the status of women in various cultures.

The harem did not prevent Egyptian women from conducting business and international trade within the Islamic ecumene prior to Western encroachment. Allied with the *'ulama,* women exercised sufficient control over their lives "to go to courts and sue, for divorce, for business deals, for unpaid loans, i.e. for exactly the same things as men (except that men could repudiate their wives and women had to sue for divorce)". There is also evidence that some women beat their husbands and appeared "unveiled in public". With the Westernization of social institutions under Mohammed Ali, however, the major trade routes "to and from the Hijaz, Syria and the rest of the Ottoman Empire" were reoriented toward Europe, eroding Muslim women's access and economic independence. Similarly, while traditional, veiled women told stories with what today might be considered pornographic content and, at the same time, made copious references to Islamic texts to bolster their arguments, this discursive freedom was veiled by modern women who sanitized their descriptions with the help of the exalted language of science and frequent references to European writers and women.

Iran's anxiety to catch up with the West and to liberate itself from the curse of backwardness led to the establishment of a new educational system privileging science and including courses on home management, education of children, hygiene, fine arts and crafts, and [in some instances, French] cooking". The chaste woman was to become the one who propelled her country into the future, erasing obsolete traditional practices and relating to her husband the way European and American women did: "The woman of modernity, thus crafted through the construction of a veiled language and a disciplined de-eroticized body, as well as through the acquisition of scientific sensibilities, could now take her place next to her male counterpart in public heterosocial space. Instead of being envisaged as a threat to social order, her very disciplined language and body became the embodiment of the new order. Unlike her traditional Other who was scripted not only illiterate but crudely sexual, a shrew if not a whore, she could now be imagined unveiled".

This hollow conception of freedom advanced by women trapped in the discourse of modernity would, ironically, be taken at face value by the Islamists in the post-1970s period, when the veil was mistakenly revalorized as the true symbol of chastity. And while women's general condition has deteriorated since the advent of the caliphal state, one must make a similar effort of painstaking differentiation and sort out the good men (such as the Andalusian and Moorish philosophers Ibn al-'Arabi and Ibn Rushd or Averroes who, in contradistinction to the proverbially harsh 'Umar, al-Khattab (the second of the four Righteous Caliphs) and the influential Khorasan-born scholar/philosopher Abu Hamid al-Ghazali, strongly argued for the emancipation of women.

Hence, within the temporal and spatial world of Islam, the position of women and male attitudes toward them were determined by a variety of social factors, not least of which was ethnicity. Yet, despite these variations, the fact remains that women—until the shock of European imperialism unleashed new agendas and turned them into a contentious topic of debate—had been increasingly confined in private spaces and harems and could only socialize in certain circumstances, such as in the *hammams* (public baths). It is rather tragic that the emergence of the status of women as an issue of major social concern would be ensnared by the reigning discourses of modernity and its antithetical defensive Islamic response. Often, both discourses fail to register the subtle nuances of history, and both demonstrate an inadequate grasp of the centrifugal forces that have been shattering world cultures in the modern period.

Muslim women's entrapment in a false debate may well have started, Ahmed contends, with the publication of Qasim Amin's book *Tahrir Al-Mar'a* (The liberation of women) in 1899. Amin, who was unabashedly apologetic for European genocidal wars and colonialism, used the pretext of the veil, as the British had done before him, to launch an assault on Islam, despite Victorian England's own patriarchal attitude toward British women. The book was subsequently suspected of playing into the hands of British colonialism and its designs on Islam, and it prompted a strong defense of the veil and other un-Islamic practices as irrevocably indigenous. The publication of Amin's book and the reaction to it became a "precursor or prototype" of the ensuing debate that mired the feminist agenda in larger and more confusing issues of cultural and political sovereignty:

Amin's book then marks the entry of the colonial narrative of women and Islam—in which the veil and the treatment of women epitomized Islamic inferiority—into mainstream Arabic discourse. And the opposition it generated similarly marks the emergence of an Arabic narrative developed in resistance to the colonial narrative. The veil came to symbolize in the resistance narrative, not the inferiority of the culture and the need to cast aside its customs in favor of those of the West, but, on the contrary, the dignity and validity of all native customs coming under attack—the customs relating to women—and the need to tenaciously affirm them as a means of resistance to Western domination.

European hostility and orientalism, then, fundamentalize Islam into a defensive orthodoxy and largely dictate the cultural agenda of the Muslim peoples, since "it is Western discourse that in the first place determined the new meanings of the veil and gave rise to its emergence as a symbol of resistance". The process of Western hegemony stimulates reactionary tendencies within Islamic cultures and delays women's emancipation from the clutches of clerical Islam. Because the most privileged and Westernized classes in Arab society eagerly surrendered to the cultural imperialism that was an integral part of the colonial process, the disinherited masses resorted to Islamic doctrine, even the most obscurantist practices, as a form of resistance to the perceived onslaught on their identity. Positions were thus dangerously polarized and hardened.

That it was Egyptian and Iranian upper-class women who first condemned native customs as backward, proclaimed the superiority of the West, and uncompromisingly equated unveiling with liberation is not only historically ironic but also reveals the class structure of the Islamic world today. Many upper-class women who advocate unveiling may only be interested in conforming to trends in international fashion, which, like the veil of old, are inaccessible to the poor. While the class appropriation of veiling has shifted from the upper classes to the lower ones, the meaning and symbolism of a woman's dress in the Islamic world today is still determined by regional attitudes, inherited legacies, and the negotiation of identity within the hegemonic structures of capitalism. Still, whether veiled or not, women's conditions are determined not by the clothes they wear, but by the degree to which they manage to forge an identity for themselves that is not

manipulated by the (often male-constructed) discourses of modernity or religious authenticity.

When, on January 8, 1936, Reza Shah Pahlevi decreed compulsory unveiling in public places, associating Muslim women's traditional attire with residual backwardness, he mindlessly "inflicted pain and terror" on many women accustomed to the symbolism of the veil. While unveiling women was then seen as a symbolic act of the nation's resolve to catch up with modernity, the oil-based "sultanistic state" of Muhammad Reza Shah, no longer relying on its traditional base of support among social elites, simply resorted to repression in order to accomplish the same goal of modernization. Under this regime, women's rights became royal grants. The revolt against the dictatorial powers of the late Shah was thus accompanied by a general repudiation of the West, stretched by Islamic militants to associate veiling with the fight against imperialism, As Iran has tried to come to terms with the challenge of the West for more than a century, and as state ideologies of emancipation have shifted from nationalist modernity to sultanistic authoritarianism to "the moral purification of a corrupt society", women's status has been determined largely by the confrontation between the changing images of a hegemonic West and a defensive Islam. This larger conflict has complicated the agenda for Muslim women, and in this seemingly interminable civilizational tension Muslim feminists find themselves caught, as Ahmed eloquently puts it, between the two "opposing loyalties" of sex and culture, "forced almost to choose between betrayal and betrayal".

Decreeing veiling or unveiling, however, does not make women willingly transform themselves overnight, en masse, for the sake of new ideologies. Just as many, women today have resisted veiling and continue to read it from a modernist perspective, some early Islamic feminists resisted the ideologies of modernity by arguing for a gradualist approach, claiming that it was still premature to do away with the veil, given men's unenlightened attitudes and upper-class women's interest in (Western) fashion only—instead, feminists such as Malak Hifna Nassef focused on promoting education and abolishing polygamy. If this discourse of Islamic "female affirmation"—widely shared by influential Islamic organizations such as the Muslim Brethren—is still, according to Ahmed, "mostly unchronicled", it may be because the dominating currents of Western feminism partake in many of the assumptions of Western secularism and orientalist legacies, as well as other

liberal bourgeois values (such as a dehistoricized notion of human rights and an implict acceptance of the bourgeois political apparatus as a reliable mechanism for negotiating the grievances of the exploited).

In its reappearance in the past two decades, however, the veil acquired a new symbolism and cannot be read within the set of symbolic earlier binarisms described by Najmabadi. In countries where the veil is not mandated, many women choose it both as a reaction to the failed bourgeois nationalist program of the postindependence era (although there is still a great deal of male coercion) and as part of the mainstream, middle-class rejection of the secular ideologies that have dominated public life. Veiling cannot, in these historical circumstances, "be constructed as regressive" and must be seen as the younger women's recuperation and affirmation of their heretofore marginalized identity. Islamic dress is "the uniform of arrival", the latest stage in a long struggle against colonialism and the postcolonial elites who, although politically secular, continue to impose a false Islamic orthodoxy on the people they govern. The veil is a reminder that most Islamic societies are still part of the global neocolonial order and that the collective process of liberation through the recuperation of a mutilated identity is far from complete. The response the veil elicits is thus, to a large extent, a symbolic statement about continuing class struggle in the Islamic world: hence Ahmed's call for the same multilayered, anti-imperialist position already practiced by feminists such as Nawal El Saadawi in *The Hidden Face of Eve* (1980).

This feminist position, however, requires an examination of the validity of secularism as a project in the Islamic world. While establishing a secular political structure finally may not be problematic (as long as it remains a technical matter and does not infringe on basic Islamic values it is not likely to elicit much resistance), the secularization of the Revelation and of the Prophet's life has been universally rejected, if not condemned, by the Islamic world (as the case of Rushdie amply demonstrates) and cannot be the basis of any emancipatory social movement in the Arab and Islamic worlds. Secularism, the separation of state and church, is, historically, a Western phenomenon, originating as much from the schisms that afflicted the church as from the post-Enlightenment period. It cannot be superimposed on a culture in which human agency is constantly negotiating its boundaries with those of the

Revelation, in which accommodation to divine intent is a fundamental principle. But this is precisely the agenda of secular elites in remolding Islamic countries, and, because of it, a new form of orientalism has emerged to equate the re-Islamization of secularized discourses with a new barbarism that aims at throwing these countries back into a medieval obscurantism.

Few Western(ized) scholars have questioned the validity of secularism as a global project, although it is well known that the concept is the intellectual product of a specific moment in European history. Moreover, even fewer scholars have examined the fundamental imperialism of the epistemology of secularism, which Abdulwahab al Masseri has cogently exposed.

> Secularism is not a separation between religion and the state, as propagated in both western and Arab writing. Rather, it is the removal of absolute values—epistemological and ethical—from the world such that the entire world—humanity and nature alike—becomes merely a utilitarian object to be utilized and subjugated. From this standpoint, we can see the structural similarity between the secular epistemological vision and the imperialist epistemological vision. We can also realize that imperialism is no more than the exporting of a secular and epistemological paradigm from the western world, where it first emerged, to the rest of the world.

At a time when the reigning ideology of capitalism has desacralized all of human life for the sake of a destructive acquisitiveness, the need to open up noncapitalist spaces is more urgent than ever. The insistence on establishing an alternative social imaginary makes Islam appear as the perennial threat it has always been, especially because, as Burgat has suggested, Islam may well be the most authentic voice of the South in its struggle against the Western-inspired and racially informed hegemonic aims of transnational capital. Whatever the case, it has become quite clear that the nationalist secularist model of the postindependence period has utterly failed to emancipate the people and is now seen as a dismal failure.

Dominant Western secular ideologies must therefore be questioned and resisted where viable traditions of social organization can lay the frame-work for a more humane and egalitarian society. If Islam is increasingly seen as the outstanding (and enduring) example of this alternative, then a vigilant resistance to the sort of monolithism persistently denounced by Edward Said

and to the patriarchal extremism that seeks to subvert the progressive and prophetic essence of Islam must continue to guide all attempts at emancipatory reform. For Islam is primarily a cosmopolitan culture that, since its inception, has preached the sort of ethnic and religious tolerance that many Western societies are still trying to achieve, although it has long failed to eradicate certain social and political inequities based on class, gender, and religion. In fact, the upheaval that Islam underwent with the advent of European colonialism may have strained social relations further and exacerbated un-Islamic patriarchal practices, for colonial subjects were bewildered by two world views and could only escape the resulting confusion either by embracing one or the other or by vacillating in the middle and never formulating a position of their own.

The institutionalization of the nation-state (an outcome of a secular epistemology) is in itself a form of cultural aggression against Islam and other cultures that share in the communal traditions of kinship and honor. Furthermore, the nation-state has had catastrophic effects on much of the Third World, where thousands of culturally autonomous communities were subjugated through the tyranny of dictatorships and parasitic bureaucracies, often financed and upheld by metropolitan centers. Indeed, no agency has succeeded in oppressing the peoples of the Third World more successfully than the state with its wide-reaching apparatuses of social and political control and its affiliation with international organizations designed to further the conquest of the poor through debt and other economic schemes. The case of the Arab Gulf states, in all their mythical splendor, is a concrete illustration of this new world order where natural wealth, if not carefully managed by unscrupulous financiers, leads inexorably to dependency and erodes the simple but self-sufficient economies that once granted autonomy to these societies. The rejection of certain Western secular models in the age of late capitalism is consequently a survival imperative for Muslim people, not just a fanatical reaction to "progress."

Yet, despite its enduring strengths, Islam is now incontestably challenged by the universalized ideology of modernity and cannot resist its interpellating discourses simply by rationalizing the *Shari'a* or by proving the infallibility of the Qur'an in the Revelation's consistency with modern scientific discoveries. The resumption of *ijtihad* (intellectual effort) and the differentiation of the ethico-religious from the existing socioeconomic (in the

granting of equal divorce rights and the elimination of polygamy) appear to be necessary steps in creating a more equitable and inclusive public space for Muslim women. The restoration of what Esposito calls "the dynamic relationship of *ijtihad* and *ijma'* [consensus]", which to me suggests innovation within tradition, is an equally urgent undertaking to avoid other superficial configurations and can only be achieved through an indigenous and progressive educational system, not the bifurcated one that has disoriented students and alienated the ruling elites from the people they govern. Esposito contends that "Islamic history, if correctly understood, has a lesson for the conservatives and reformers. It offers a picture of a dynamic, changing, adaptive religious tradition. A fuller appreciation of the real as well [as] idealized Islamic past can provide the understanding and means or methodology for Islamic responses to the challenge of modernity as Muslims once more repeat the process of Islamization—to develop a viable political, legal, and economic model of society and to draw all available data and practices, but to do so in light of the *Qur'anic* principles and values".

Esposito's recommendation, however, may well entail a critical reading of the *Shari'a* itself, which has been the basis of gender relations and classical family law and has also been codified and jealously guarded by conservative religious scholars *('ulama)* since the tenth century. Despite the undeniable progressive elements in early Islam (acknowledged by El Saadawi, Ahmed, Mernissi, Walther, and others), the *Shari'a*, largely unquestioned to this day, has continued to enforce the prevailing traditional roles of women. This may be why Mernissi anticipated that social struggles in the Arab world will be over civil rights. The problem is that proponents of this political alternative assume that bourgeois democracy (a participatory or parliamentary system that assumes the existence of classes vying for political control) is inherently liberating, although it is clear that the ideology of pluralism is being used to contain oppositional forces in much of the Third World. Arguing for civil rights as a reliable basis for a legitimate feminist movement in the Islamic world today not only dismisses the weight of tradition and culture (and thus paradoxically partakes in the same antihistoricism of which Islam is accused) but also discourages any attempt at conceptualizing and building genuine movements of resistance to the "global revolution of Westernization".

The proposition that religion and state be separated is a tenuous one in the world of Islam, for its impact would be

superficial and would benefit-as it has until now-only those opportunistic and superficially Westernized elites who have maintained patriarchal regimes in the Arab world and beyond. Still, Arab states have not been able to adhere fully to the text of the 1948 Universal Declaration of Human Rights (UDHR) because the tension between, on one hand, Islamic teachings and the religious principles of the *Shari'a* and, on the other, the legitimization of individual human rights in a secular framework of social relations proved, in the long run, to be irresolvable. In her detailed study of major Islamic documents dealing with human rights issues, Ann Elizabeth Mayer concludes that, despite the fact that Islam initially provided unprecedented rights to women, all of the documents fail to elevate women to an equal status with men and fail to meet the basic standards of the UDHR and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). To the extent that Mayer suspects patriarchal, neocolonial regimes of concocting these "schemes" in order to stifle dissent and to legitimize, through the deceptive use of modern terminology, the archaic Islamic tenets of the *Shari'a*, her argument remains strong and credible. However, when she avoids any meaningful discussion of either the last eight articles in the UDHR dealing with economic rights or the utter failure of Western capitalist societies to implement other "human rights" documents such as the International Covenant on Economic, Social and Cultural Rights, she privileges the monadic, nebulous individual supposedly free from physical coercion by the state but trapped in a violent economic system that ruthlessly distorts the very meaning of humanity, freedom, and happiness.

I am not implying that the political is absolutely and mechanistically determined by the economic (a margin of autonomy always exists, but whether it works in the interests of the working class and the poor is still not clear). I too think that expanding the sphere of political freedom is still strategically indispensable, but to regard this as an end in itself, or to assume that political rights (*e.g.*, freedom to vote) will be translated into better social conditions, is a dubious proposition, especially in this advanced epoch of capitalism characterized by relentless corporate warfare on public security. Marx himself preferred democracy to other political systems, but he had no doubt that freedom of contract under postslavery capitalism was still a form of enslavement. In *The Holy Family*, he explained this paradox succinctly: "The *slavery of civil society* is *in appearance* the greatest *freedom* because it is in appearance the fully

developed *independence* of the individual, who considers as his *own* freedom the uncurbed movement, no longer bound by a common bond or by man, of the estranged elements of his life, such as property, industry, religion, etc., whereas actually this is his fully developed slavery and inhumanity". This tension between freedom and exploitation is precisely the reason Marx thought capitalism irredeemable and proposed communism as the most civilized system of human relations.

If the crisis of the Muslim is one of identity, the solution does not lie in accepting a bourgeois definition of the human, but in examining the historical and cultural background of the prevailing (Western) capitalist equation of the individual with an "autonomous, contract-making self," where the "self" is conceived of as property. Mayer herself makes detailed and legalistic (i.e., textual) comparative analyses of Islamic and Western laws and concludes that the current notion of international human rights is based on "Western traditions of individualism, humanism, and rationalism and on legal principles protecting individual rights". The indifference to Islamic law in the drafting of international human rights documents was probably prompted by the West's assumption of its own superiority and by the fact that "Islam is overwhelmingly the religion of Third World countries". Although for Mayer the topic of Islam is still mired in historical antagonisms, the secondary literature on human rights is too weak to elucidate the issues, and "dealing with Islam is like stepping into a minefield", she is convinced that "Islam is not the cause of the human rights problem endemic to the Middle East". However, instead of tackling the epistemological and ontological differences that fuel the tension between the Islamic and Western views of society and the individual, she devotes most of her book to taking officially sponsored documents to task for failing to be consistent with the international laws ratified by Islamic governments. There is nary a word on the complicity of Western governments in supporting undemocratic regimes, and there is no examination of the United Nations's structure; in short, Mayer's legalistic approach in comparing texts (although this is a strategy she uses for enlarging the sphere of freedoms in Islamic societies) turns her book into an ahistorical document of limited value to the perennial struggle of Muslim peoples against the secular ideologies of the West.

For instance, Mayer fails to examine how the notion of the "individual" in Islam is inextricably tied to the spiritual and

socioeconomic welfare of the community, as Mahmood Monshipouri has shown: "The atomized and 'private' individual, abstracted from the social and political context of his or her surroundings, is a product of the rationalizing aspects of modernization and the spread of science and technology". Or, as al Masseri further explains, the "individual," according to the model propagated by Western capitalism, is

> a set of abstract needs defined specifically by monopolies, advertisement and fashion companies, and by several entertainment industries. In this context, the individual is no more than a unit reduced to a receptor of heavy instructions from public institutions that have no individuality and no value other than augmenting profit. These institutions resemble an absolute state that has appointed itself as an absolute power and that has remodelled individuals so that they could play the roles or perform the functions assigned to them. To talk of human rights (in the abstract) is, therefore, to continue the original assault on the intermediary institutions that began in the Renaissance and left humanity completely naked before the state and its institutions.

While Monshipouri dismisses the pressure of the West on Islamic societies as a simplistic form of cultural imperialism that rests on "the amorphous assumption of value diffusionism", he proposes that only an internal evolution that emphasizes economic rights is likely to work. Such a system would be consistent with the aspirations of Third World peoples, expressed in the New International Economic Order (NIEO), and with the fundamental precepts of Islam. "Muslim perspectives on universal human rights," he points out, "have traditionally revolved more around themes of social justice than of individual freedoms". Indeed, like many Marxists who have advocated a synthesis of civil and economic rights, Monshipouri argues for an entente between Islam and the secular West: "In the final analysis, just as the Islamic views and traditions on certain fundamental human rights ought to evolve in keeping with the modern world, so too the Western liberal traditions (those belonging to the Lockean praxis) must be complemented by necessary additions compatible with the global evolution of economic rights".

Muslim identity, as one interview with mostly Muslim Arab intellectuals revealed, is often privileged over individual rights. Since, in Islam, "the conceptual basis [of rights] is teleological and their ethical foundation theological", the boundaries of individual

freedom are determined not by secular law but by divine decree. Even the idea of freedom itself is defined by the late Sudanese scholar Mahmoud Mohamed Taha in transcendental terms as being primarily secure in one's innermost being. The rights to autonomous identity and self-determination have solidified the Arab states' position—despite their varying degrees of complicity with the reigning international order—toward the Western-inspired human rights charter precisely because bourgeois democracies assume the sovereignty of the individual, not the community. The incompatibility of Islamic principles and secular assumptions, together with the Third World's resistance to Western hegemonic aims, complicated the 1993 Conference on Human Rights in Vienna, although minorities and particularly women seem to have benefited from an expanded definition of rights. It is perhaps not surprising, given the current definition of human rights in the West, that women would emerge as beneficiaries, while entire peoples do not have the right to determine their own cultural and economic agendas. For this reason, neocolonialists will continue—partly through the agency of individualism—to discredit non-Western conceptions of rights, and the debate over feminism in Islam will continue to be implicated in larger ideological struggles. But remembering that gender and gender difference are products of history and are "reproduced through complex moralities, idioms and structures" may allow the feminist agenda to take center stage now and not wait, as Iranian feminist Nayereh Tohidi cautions us against, until "the days after the revolution," or the time—which has yet to dawn—when ideological and cultural binarisms (colonizer/colonized) are dismantled. To chart out an acceptable cartography" of struggle, feminists need to engage Dorothy Smith's "relations of ruling" strategy, which designates a totalizing approach to the multifarious but interlocking practices of power, although I still do not think that Tohidi's Western secular model of social relations is ultimately effective in Islamic societies.

If gender hierarchies were more fluid in the precolonial period, then to claim that Islam is essentially undemocratic and "patriarchal" is ideologically suspect, because it freezes the history of Muslim peoples and downplays the impact of imperialism on gender relations in Islamic countries. The recent popularity of civil society as "the new analytical tool that will unlock the mysteries of the social order" has not only obscured the cultural foundations of this concept in European Reason and Christian Revelation, but it also dangerously posits the duplication of very specific cultural

evolutions of Western Europe and the United States in parts of the world that have undergone different historical experiences and the populations of which respond to different markers of identity. It also assumes the inevitability of capitalism as a system of social relations, since "it was in the modern era, with the nascent capitalist economy and the freeing of the individual from traditional and communal ties, that the problem of squaring individual and social goods and desiderata achieved a new saliency. The modern ideas of civil society developed by Locke, Ferguson, Smith, and Hutcheson (and, to some extent, Shaftesbury) were all attempts to posit a solution to the new problem of the social order that emerged at the end of the seventeenth century". Moreover, the notion of civil society "is based on a gendered distinction between public [male] and private [female] domain" and "is now being challenged in the West by feminists and people of color." Consequently, "its uncritical application to Third World countries and the uncritical use of the relative existence of components of civil society as measures of 'modernity' or progress are highly problematic".

While women are inevitably caught up in the "political-cultural battle-ground" of Muslim societies, and all "political and cultural projects are gendered", there is no reason to believe that secularized discourses are indispensable for the emancipation of women from the tyranny of a male-dominated Islam. The case of Algeria is a glaring instance of how secular modernization in the postindependence period has been primarily mimetic, restricted to a vacuous political discourse, since the Family Code, based on the precepts of the *Shari'a,* has continued to regulate gender and family relations. Cherifa Bouatta and Doria Cherifati-Merabitine present the *moudjahidates* (women who valiantly fought for independence) as symbols of the Algerian woman who was betrayed by the promise of the revolution. But contrary to Bouatta's implication, it was the postcolonial secular system that permitted the marginalization of women by maintaining the supremacy of men. Women were to be legitimated as equals not through secular legislative measures (although the Algerian Constitution affirmed women's equality) but through their heroic struggle against French imperialism. If they were able to conquer previously closed (because secralized) spaces, it was because the regressive codes of a patriarchal Islam had so clearly failed to defend the country. In other words, it was the national struggle against imperialism that brought women out of their confined, privatized social spaces into the public sphere, where their contributions would be crucial for

the liberation of Algeria. It is not clear at all that the modernist project embraced by the secular elites immediately after independence included a concrete agenda for relinquishing male privilege and sharing social and political responsibilities with women. And that has been so not because of a deliberate conspiracy but because of the contradictory nature of Algerian society in the postcolonial period. Political will, in this case, has not been able to eradicate a more profoundly entrenched culture of Islam and kinship. And it is partly this irresolvable contradiction that has thrown Algeria into its current impasse.

The failure of both modernist ideologies and clerical Islam indicates the need for a third way that is both indigenous and progressive, a way that was charted out by the late Mahmoud Mohamed Taha (opportunistically executed for challenging orthodox beliefs) in his still largely unread manifesto *The Second Message of Islam*. Taha's argument is serious and, if widely discussed, might provoke a debate rooted in what Esposito calls "a consistent Islamic rationale". Taha and his disciple Abdullahi Ahmed An-Na'im, however, go further than any mainstream reformer to call for the total elimination of the *Shari'a* (since it is inherently inegalitarian and patriarchal and cannot be altered beyond certain limits) and the creation of a new law based on Meccan Revelation (*i.e.*, before the Prophet's flight *[hijra]* to Yathrib, later Medina, an event that inaugurated the Islamic calendar and that, in Mernissi's view, set back the freedoms of women and reinstated them at the point zero of history). Although extremely controversial, such an arrangement would not necessarily be un-Islamic, for the *Shari'a* is "a situational, not a transcendental law". If the Revelation could adapt to the specific historical period of Arabia's transition into a new Islamic order, then it makes little intellectual sense to canonize the interpretations of orthodox *'ulama* into an antihistorical immutability.

Both Taha and An-Na'im use the method of *naskh* (abrogation) to retrieve the earlier, abrogated verses of the Meccan Revelation, which (unlike the later, ethnic-specific messages revealed to the Prophet during the process of *umma* building) are more egalitarian and universal in spirit. Taha's "Second Message" is an Islamically derived critique of both the stagnation of Islamic scholarship and the failure of "industrialized Western civilization. . . to reconcile the needs of the individual with the needs of the community". The first message of Islam was the preparatory phase (including the gentle censorship of certain unacceptable practices and the implicit

maintenance of others) for the eventual emancipation of all peoples through a revolutionary reading of the Qur'an. This, according to Taha, is the only solution for enlightened Muslims who reject both orthodox interpretations of Islam and the corrosive program of Western secularism. As An-Na'im says in the introduction to Taha's book, the best way to combat the obscurantism of Islamic extremism today is not through an equally irrational recourse to secular ideology but through reforms that "would make Islam a viable modern ideology". Taha's conception of the "Good Society" as economically socialistic, politically democratic, and founded on the equality of men and women is both consistent with Islamic principles and the only way out of the cultural impasse facing Muslims today.

An-Na'im states, at the outset, that the reconstructed *Shari'a* should be based on the same Islamic foundations, since "Islamic identity" is "essential for the political viability of the proposed reforms". In fact, An-Na'im reads the actual Islamic resurgence as an expression of "the right to self-determination", including the (misguided) attempt to reinstate the *Shari'a* as the binding law in social relations. Yet the historical *Shari'a* is proving too inflexible to meet the legitimate aspirations of women within the political framework of the nation-state (whose existence An-Na'im takes for granted, for it seems that the concept "is now firmly and irrevocably established throughout the Muslim world", which means that the *Shari'a*, not being divine, must be challenged from within an Islamic context if women and religious minorities are to enjoy their constitutional rights as citizens and members of a nation-state. Indeed, the time has come to dispense with the privileging of the Muslim male over women and religious minorities and to adopt the "principle of reciprocity" or the golden rule that "one should treat other people as he or she wishes to be treated by them" as the "common normative principle" of universal standards of human rights—or, alternatively, "those rights to which human beings are entitled by virtue of being human". But since the *Shari'a*'s sanction of slavery and discrimination on the grounds of religion and gender conflict with these basic principles, Islam is harmed by its continued unmodified implementation.

While I do not agree with An-Na'im's premise that the nation-state will (or should) endure as a form of political and social organization in the Islamic world and elsewhere, I share his criticism of the West for not laying the groundwork for the

execution of the lofty principles it preaches and for refusing to eradicate the conditions of inequality and oppression, within both its metropolitan centers and semicolonies. Any agenda that seeks the emancipation of women in the Islamic world must examine the implications of its program at a variety of interlocking levels if it is not to be co-opted by the dehumanizing effects of the global capitalist system. In this case, a positive sense of identity works to ensure continued resistance to the destructive effects of commodity culture.

Now, then, is the time to dispel the entrenched belief that the religion of Islam acts as a barrier to women's fulfillment outside of men's arbitrary control, and to acknowledge that it is a male-manipulated interpretation of Islam, often encoded in an increasingly irrelevant *Shari'a,* that has allowed orientalist prejudices to persist in the West and among Westernized Muslim elites. A thoroughly redefined Islam, in dynamic relation with other cultures, must be preserved as a viable alternative to the unrelenting process of Westernization and the sometimes extremist practices of fundamentalists. Ultimately, both practices threaten the Islamic cultures that sustain the identities of both women and men. While the term *Islam* itself may evoke strong (mostly negative) reactions among Westernized Muslims, feminism must still be understood as "a mode of intervention into *particular* hegemonic discourses" and not as a universal response to an assumed universal patriarchy. The common denominator of victimization that certain Western feminists have ascribed cross-culturally erases the complexities, pluralities, and historical specificities of different cultures; its monolithic assumptions are therefore akin to those of orientalism. This is why "sisterhood cannot be assumed on the basis of gender" bur "must be forged in concrete historical and political practice and analysis". Moreover, as Lazreg has put it, "to think of feminism in the singular is sociologically inappropriate".

The egalitarianism inherent in what Leila Ahmed calls "the ethical voice of Islam" is one reason "Muslim women frequently insist, often inexplicably to non-Muslims, that Islam is not sexist. They hear and read in its sacred text, justly and legitimately, a different message from that heard by the makers and enforcers of orthodox, androcentric Islam". This voice must now be retrieved through a radical reform of the *Shari'a* and the resurrection of *ijtihad* as the basic core of a dynamic Islamic scholarship. The

Prophet's wives (despite the highly publicized portions of Rushdie's *Satanic Verses*, which may appear to be outrageously demeaning to women) could stand as a new model of womanhood in Islam, for it is now well known that several of his wives challenged male supremacy and, as widows, took an active interest in public and political affairs. Several, such as 'Aisha, Umm Salama, and Umm Habiba, were renowned for their "intellectual qualities," and 'Aisha is said to have been one of the principal sources of 2,210 *hadiths*. In short, once it becomes clear that "there is a general thrust towards equality of the sexes in the *Quran [sic)*" and that several verses, such as the (in)famous one on polygamy, were "contextual" justifications, not "normative" ones, and that therefore their "applicability must be seen as dated, not for all times to come," a progressive reform can proceed simultaneously with the harnessing of energy needed to resist the increasing marginalization of the world of Islam and the Third World generally. And because the Qur'an intervenes rather ambiguously in the social sphere, the forms of social relations would be negotiable if men were to be guided (forced?) back to the true spirit of Islam, long frozen into a debilitating orthodoxy.

In fact, the process seems to have begun in parts of the Islamic world. In the Islamic Republic of Iran, a country governed by a male clerical elite, there is now a thriving intellectual debate over how to challenge repressive laws from within the Islamic tradition itself Incredible as it may sound, "no other group has been as determined and resourceful in challenging the various economic, social and cultural obstacles that have been placed in its way as have been Iranian women under the Islamic Republic". The emerging Islamic feminists in Iran are challenged "to maintain a delicate balance between reclaiming a national identity, reaffirming progressive elements of the indigenous culture, and the struggle to create a democratic, just, and coherently developed society". Similar efforts are taking place in other parts of the Islamic world. Indeed, the scope of the Islamic feminist movement is so large and thoroughly revolutionary that it may well be one of the best platforms from which to resist the effects of global capitalism and contribute to a rich, egalitarian polycentric world.

When the Moroccan writer Leila Abouzeid captured the hypocrisy of the postcolonial ruling classes in her novella *Year of the Elephant* by exposing the predicament of Zahra, a traditional guerrilla fighter against French colonialism whose husband rejects

her upon independence for a younger, more modern woman, she made her protagonist seek strength in tradition and Islam, not in some ill-digested and amorphous ideology of modernity without resonance among the people. Contrary to ben Jelloun's suggestion in *The Sand Child* and *The Sacred Night*, Abouzeid defines Morocco's nationalist movement of resistance to colonialism as a liberating epoch for women; it is modernized elites who have subverted this potentially egalitarian project by pursuing the mirage of Westernization in the postcolonial era. Despite her profound disillusionment, Abouzeid's protagonist, Zahra, continues to pray, to wear the *djellaba*, and, as a committed revolutionary, to wait for the day when this neocolonial order will be replaced by a new independence that allows cultures to negotiate their destinies in their own vocabularies.

3

Ethnicity and Gender in Islam

During revolutions, rebellions, and movements, women are often called on to serve contradictory roles. They are asked to perform work—political, communicative, networking, recruiting, military, manual—that generally goes beyond the society's usual gender restrictions. At the same time, women serve as symbols of movement identity, unity, commitment, and righteous entitlement. To fit into this idealized symbolic image, individual women must fulfill often "traditional" or even exaggerated "feminine" behavioral and attitudinal requirements, such as loyalty, obedience, selflessness, sacrifice, and "proper" deportment: all in all, they are to put aside any personal aspirations and wishes for self-fulfillment and give their all to promoting the values and interests of their nation, revolutionary movement, or social group.

In serving the revolution, group, or movement, women gain skills, experience, and awareness of their own capabilities. However, they are to place all of this at the disposal of the revolutionary movement or, more precisely, its male leaders. Then, when the struggle is over and they are no longer needed, the female Algerian and Palestinian freedom fighters, the French and Iranian revolutionaries, and the American "Rosie the Riveters" are all supposed to go home and revert to earlier, narrower gender roles, as if all of their experiences had not happened and nothing had changed.

But of course things do change. In spite of increased pressures to serve their group selflessly during times of agitation and to promote their group's values devotedly, women do *not* abnegate all sense of selfhood. Within the tight constraints of their loyalties, they manage to maintain agency. Their experiences and what they have learned from them about themselves, society, and possibilities for change do not disappear but are incorporated into their self- and worldviews and may play a part in further personal and social transformation.

In this article, I examine a situation where women in Peshawar, Pakistan, as part of a religious/political movement, were passionately loyal to their deprecated religion and threatened religious group. With all their hearts, they wanted to serve their embattled religious sect. And yet, in spite of their dedication to their religion and religious movement, they used their service experiences to consider and transform their self-images and worldviews.

Many Americans might assume these Pakistani Shi'a Muslim women, caught up in a religious fundamentalist movement, to be so much controlled by their attachment to their culture's values and constraints that, they become passive subjects, lacking selfhood and actor status. This view may be due to the fact that the women are Middle Eastern, Muslim, and religious fundamentalists. Any one of these three identities might imply that a woman is so attached to or embedded in her social grouping and its values that she capitulates entirely and is incapable of agency. True, dedicated as they are to their beleaguered religious group, they are not willing to question openly its values or tenets by obviously straying outside of its gender boundaries. My field research demonstrates that through their summer 1991 women's religious rituals (*majales*), Shi'a women in Peshawar, Pakistan, carried out crucial outreach work among Shi'a from various ethnic backgrounds, assisting their mobilization into the unified Shi'a movement. In conducting this political work, they did not threaten central Shi'a values or gender expectations: they worked under male guidance in sex-segregated female groups and wrapped themselves in proper purdah veils while traveling to and from women's religious rituals.

While conducting their political and symbolic Shi'a movement work, however, the Peshawar women simultaneously furthered their own mobility, freedom of action, and personal development.

The paradoxical demands on women of the Shi'a movement—that they should be capable political workers as well as obedient, pure, self-abnegating, covered, and secluded symbols of the strength and rectitude of the Shi'a religion and movement—provided a gender situation with some fluidity and dynamic potential. In spite of what outsiders might think and what movement adherents and political/religious leaders might attempt to project, gender—even for members of a fundamentalist Shi'a movement— is not immutable or unmalleable.

During my field research in Peshawar in the summer of 1991, Shi'a women engaged in subtle gender negotiation and modification through the practice of their religious mourning rituals—the *majales*. Through this religious ritual work, the women generated paradoxical power. Their significant political outreach and consolidation work made them valuable political resources—and thus all the more important to contain and control. But their travels around the city and even to other cities to attend *majales;* their developing performance, social, and leadership skills; their experiences with diverse people and situations; and their growing awareness of their capabilities presented them with opportunities to think differently about themselves, women in general, and women's place in society. It is ironic that the *majales* brought women *both* fundamentalism *and* freedom as well as a female community *both* coercive *and* enabling. Investigation of 1991 Shi'a women's *majales* in Peshawar reveals how women, no matter how loyal to their social group's values, religion, and aims in troubled times, may nevertheless find means for self-development—and thus potentially also for an evolving self-and worldview and for gender transformation—through the very practice of their group service.

The martyrdom of Imam Husein generated Shi'a Muslims' central myth and paradigm as well as these mourning rituals, which hold such profound significance for contemporary Pakistani Shi'a women. Although the reigning caliph's army killed Imam Husein and his followers thirteen hundred years ago, the martyrs' struggle and plight still influence believers' worldviews and political stances at present. After their A.D. 680 conquest, the victors marched the captive womenfolk from the Karbala plains, south of present-day Baghdad, to Damascus, the caliph's capital. Zaynab, Imam Husein's sister, initiated the Shi'a mourning rituals by courageously lamenting and recounting the martyrdom story

along the way and even at the caliph's court. Since then, the lamentations have been elaborated into passion plays, chants and hymns, ritual self-flagellation, processions, and narrations. With the profound spiritual and emotional meanings that they hold for believers, these rites of lamentation are also politically charged. Adherents use them for expressing Shi'a identity, making political statements, and contesting political power. Although the efficacy of Shi'a mourning rituals in political competition and conflict has been documented, their implications for ethnic and gender politics have been neglected.

My Peshawar study investigated connections among religious rituals, ethnic identity, and political hegemony. The *majales* provided a medium for Indian immigrant Shi'a to monopolize ritual process. In the Shi'a unification effort, Indian-Pakistani, or Mohajir (refugees from India), Shi'a were propagating their own ritual style, religious interpretation, and language—Urdu—at the cost of those from other Shi'a ethnic groups, such as Pukhtun and Persian-speaking Qizilbash.

Regarding gender politics, my research explored the paradoxical effects of women's rising commemorative ritual participation for their self-actualization and autonomy. Although women played a central part in knitting together Shi'a from various ethnic groups, and thereby gained mobility and a heightened sense of community they were also exposed to intrusive social coercion and Shi'a activists' increasingly fundamentalist attitudes. The Shi'a movement's alternative power framework thus brought women constraints and losses as well as new freedoms. Because both female and male Shi'a organizers sought to use women's intensified ritual devotion for their own ends, women's ritual involvement became a contested resource in the subtle struggle over gender power.

To develop the analysis, I first contextualize my research on women's *majles* (sing. of *majales*) in Shi'a political history, Peshawar gender attitudes, and my own cross-cultural research experience. After introducing the concept of alternative power frameworks, I go on to review the social histories and divergent ritual practices of the three main Peshawar Shi'a ethnic groups and then analyze the expansion of Mohajir ritual influence and the Mohajir-dominated Shi'a fundamentalist movement. Finally, I discuss the paradoxical power that women *majles* participants generate and speculate about where the contradictory forces might lead Shi'a women.

Power Politics, Gender Politics and Peshawar Women's Majales

The 1979 Iranian Revolution strengthened Shi'a identity not only in Iran but in other countries as well. My interest in the connections between Shi'a religious rituals and power contention was first aroused during my field research in Iran, which began in July 1978, just as the Iranian revolutionary movement was gathering force. A Fulbright fellowship to Pakistan in the fall of 1990 offered the opportunity to further probe connections between Shi'a ritual and politics. However, my teaching and research in Peshawar were rudely interrupted in mid-January 1991 by the pre-Gulf War evacuation of Americans. In July I was able to return, just in time for the anniversary rituals of Imam Husein's martyrdom. Shahida, a former student from the University of Peshawar, took me to her Mohajir neighborhood public Huseiniyyah Hall, launching me into the summer's round of women's *majales* and my research on the ethnic and gender politics of Imam Husein mourning ceremonies. At each *majles*, women invited me to a future *majles* in their own home or told me about others and urged me to attend. During the next two months, I spent most of my time scurrying around the city to women's rituals and interviewing Shi'a men and women.

Few ethnographers have studied Shi'a women's rituals; male researchers have no access to the sex-segregated women's gatherings. Even with the entree provided by my students, going on my own to rituals was difficult for me, because I did not know what reaction to expect from fervent Shi'a practitioners, particularly in the aftermath of Desert Storm. The American offensive against their fellow Iraqi Muslims had horrified and infuriated Pakistanis, and Saddam Hussein's genocidal slaughter of Iraqi Shi'a after the war and American inaction sorely grieved Pakistani Shi'a.

As an American, therefore, I was reluctant to attend *majales* where I might not know anybody and sometimes had to compel myself to go. My second *majles*, the *'Ashura* ritual at a large Qizilbash home, was the most nerve-racking for me. A student's brother guided me through alleys and deposited me at the passageway leading to the women's upstairs balcony. (My student could not come with me, much to my regret; her conservative family did not allow their womenfolk out even to attend sex-segregated religious rituals.)

I slowly moved up the steps, emerging into the crowd of women already seated on the floor as close as possible to the lattice looking down on the courtyard below, where all the action would take place. All faces looked at me in wonder and then turned to murmur questions and speculations to their neighbors. I gathered the courage to find a space to sit and, eventually, even talk a little to the women around me. Hidden from male sight up on the latticed balcony, we women listened to the sermon and then crowded in to watch the men's spectacular grieving and bloody self-flagellation following the entrance of the white horse representing Imam Husein's bereaved steed.

Later, I realized I need not have been so apprehensive. As I attended more rituals and became acquainted with the regulars so that I could join in the chatting and community feeling, my comfort level rose. Although I am concerned about many implications of religious fundamentalisms and cannot, entirely share these women's worldviews, during my visits I concentrated on trying to understand them. People did not query me on my opinions that summer but rather focused on expressing their own. In characteristic anthropological "participant observation" research practice, I participated in their *Moharram* experiences as fully as possible while observing attentively.

As a Western, liberal woman, I saw this situation to be marked by a religious ideology and related sociopolitical stances that severely confine women. Indeed, I had come to the North-West Frontier Province (NWFP) precisely because I wanted to study gender dynamics and women's coping mechanisms under extreme conditions. Yet I wanted to focus not on women's confinement but, rather, on their attempts to create selves, lives, and communities to serve best their own interests and those of their loved ones and affiliates, under their limiting circumstances.

For several reasons, I felt a bond with these Shi'a women that somewhat mitigated the worldview discrepancies. We were all females together, and in both their cultural setting and my own Midwestern, Scandinavian Lutheran background, women were perceived as having commonalities and were expected to interact among themselves at social gatherings. Further, in both cultural environments, women were supposed to be "nice" and were responsible for reaching out to and including other women. Adding to my sense of belonging at Peshawar Shi'a women's ritual gatherings were my memories of similar Shi'a women's gatherings

I had attended in Iran. With these women, I was furious at Saddam Hussein's brutality against the Iraqi Shi'a and greatly saddened by their plight. I too was distressed by discrimination and violence against Shi'a in Pakistan and elsewhere. My personal philosophy of concern about people suffering under inequality and unrightful power resonated with the Shi'a collective memory of Imam Husein and his small band's courageous battle against the tyrannical caliph's great forces. I grew intrigued with how these Pakistani Shi'a applied their paradigm of a persevering struggle between justice and evil domination to their current political situation, just as the application of this paradigm to the 1978-79 popular movement against the Shah's government had fascinated me in Iran.

In Pakistan's early history after the 1947 partition from India, Sunni-Shi'a conflict was not significant. The founders of Pakistan were largely secularists, and, in fact, Jinnah himself was a nominal Shi'a convert. In the early 1960s, however, Sunni religious leaders reacted to the Western-educated political elite's plans for a democratic, secular state with demands that Islamic principles must govern Pakistan. *Moharram* clashes broke out between Sunni and those Shi'a opposed to a Sunni Islamic state. Shi'a supported President Ali Bhutto: his secular government and Shi'a connections (his wife was originally an Iranian Shi'a) portended tolerance for the Shi'a minority, some 15-20 percent of Pakistan's population. Then, with President Zia-ul-Haq's politically astute efforts at Islamization, Pakistani Shi'a became seriously disaffected. Many aspects of President Zia's 1979 reform package, Shi'a angrily pointed out, were derived from a Sunni school of law and were not in accordance with Shi'a religious law. Shi'a were particularly incensed that Zia planned to collect *zakat* (religious taxes) directly from bank accounts; Shi'a did not give religious taxes to the government but to Shi'a leaders *(mujtahids)*. After widespread demonstration in 1980, Shi'a were exempted from the government *zakat* taxation, but Zia's rigid Sunni Islamization had alienated Shi'a and encouraged Sunni-Shi'a acrimony, resulting in the bloody *Moharram* 1986 rioting in Pakistani Punjab. Peshawar Shi'a, still furious, told me that during that period extremist Sunni groups, fueled by Zia's press for Islamization and funded by Saudi donations, had attacked Shi'a mosques in the NWFP and had even desecrated the Qur'ans found inside.

Peshawar Shi'a had particular reason to feel outraged frustration against the government. The top-ranking Pakistani Shi'a

cleric, Arif al-Hussaini, a Peshawar resident and ardent Khomeini supporter, had been assassinated in 1988; those responsible had still not been punished. Militant Shi'a, racked by thoughts of Arif al-Hussaini's martyrdom and his as-yet unapprehended assailant, were at loggerheads with militant Sunni. Inspired also by the Iranian Revolution and by the related growth of Shi'a religious transnationalism, Peshawar Shi'a were gaining self-consciousness, I found in 1991. Many believed that the Sunni Muslim government and majority population discriminated against and mistreated them. Shi'a leaders felt that a stronger political front could potentially pressure the Sunni government into better protection and sensitivity to Shi'a needs land demands. Consequently, they were working to unite the divergent Shi'a ethnic groups—Mohajir, Pukhtun, and Qizilbash—into one large alliance.

As is often the case, women played central roles in reaching out to other Shi'a ethnic groups and strengthening social connections, in this case, largely through women's ritual mourning gatherings. Their task required increasing mobility and independence for *majles* attendance. By patronizing these mourning rites, they could spend time outside of the house in enjoyable social interaction, which was much appreciated by women ordinarily restricted to their homes by the stern Peshawar modesty code (purdah).

It is difficult for contemporary American women to grasp the extent of Peshawar women's containment and suppression. Peshawar is the capital of the NWFP, homeland of the Pukhtun ethnic group, whose stark views of women's place are distilled in their ominous saying: "Women— either the house or the grave." Ideally, a female should go out of the house only twice during her lifetime: once when being conveyed as a fully veiled, arranged-marriage bride from her father's to her husband's extended household, and the second time when her dead body is carried from house to cemetery. Although few (if any) women actually attain this ideal, nevertheless they are secluded as much as possible. Schooling takes few out of the home; only some 3 percent of NWFP females are literate. When women do leave the home, their segregation from men is still rigid: even social occasions, such as weddings or funerals, are sex-segregated. Further, men of any standing have men's houses—separate buildings or set-aside rooms—for entertaining other males apart from their own households, so that their women need never be exposed to outsiders.

Generally, to be allowed out of the home, Peshawar females must have very good reason; be fully concealed with a body veil and, for most, a face shield; and be escorted by a male relative. The careful modesty normally necessary even for non-Pukhtun women—the majority male Pukhtun population expected rigid purdah for proper females—became even more important with the growing Afghan refugee population. Women venturing outside without the knowledge or permission of their supervising menfolk feared their men's suspicion and severe punishment, rival groups' political or honor-motivated violence or harassment or worse, which any male "naturally" might commit against an unprotected woman.

Little wonder, then, that Shi'a women eagerly grasped the expanding latitude to travel far afield for women's religious gatherings. In addition to compelling spiritual reasons and sectarian loyalty, women tremendously enjoyed the adventure, socializing, and special refreshments at rituals. In spite of such attractions, though, their ritual participation confronted the women with problematic paradoxes: the Shi'a unification goal rather inevitably bolstered religious fundamentalism and group social pressure. Non-Mohajir women faced further drawbacks. As the Mohajirs' ritual style, religious approach, and language (Urdu) became predominant in the consolidated Shi'a movement, the languages and ritual/religious styles of Shi'a women recruited from other ethnic/linguistic groups, such as the Persian-speaking Qizilbash, were becoming lost to them.

Alternative Power Frameworks: Opportunity and Oppression

Several anthropologists have analyzed situations where women turn to another power framework in order to enjoy the alternative system's freedoms and benefits. Embracing an alternative power framework and enjoying the freedom, opportunities, and mobility that it offers may also result in unsought and unforeseen restrictions and disadvantages. People may draw on several "spheres of action" in power manipulations and strategizing toward their own ends.

To gain affirmation, competence, status, religious reward, and self-assurance, Peshawar Shi'a women evaluated several power frameworks and juggled numerous aspects of their identities and affiliations, all with their respective diverging, converging, and overlapping discourses. For these women, religion, family, ethnicity,

gender, and nationality were significant sources of identity and meaning. They faced the challenge of finding means to satisfy their socially constructed needs and aims in each discourse while threatening others as little as possible.

Choosing Appropriate Frameworks

For Shi'a women, attachments to family and religion were so critical and profound that they were not prepared to pursue social status, self-assertion, career, competence, or distinction through means considered illegitimate by religious teachings and cultural understandings about family. In Deniz Kandiyoti's terminology, Peshawar Shi'a women were not prepared to reject the "patriarchal bargain" of exchanging autonomy for support and protection. Given their existential situations, they had good reason for this stance: economic dependence, lack of other viable options, and the perceived impossibility of living without family and male protection meant that women could not opt to leave sternly patriarchal, religiously supported family authority. In addition, the powerful emotional, psychological, and spiritual ties connecting women with their religious community and Shi'a saintly figures made them understandably reluctant to resist openly their religious heritage's patriarchal components.

Pakistanis, on the whole, seem less ready to question their religion than are people in many other Middle Eastern countries. Their reluctance is related to the proximity and history with India and its Hindu majority, among other factors. As part of their nationalistic as well as religious duty, Pakistani Shi'a and Sunni women have shared responsibility for upholding Islam—Pakistan's raison d'etre and the rallying focus against larger and more powerful India.

Advantages for Women in the Shi'a Movement: Freedom, Mobility, Women's Community

For a number of reasons, then, Peshawar Shi'a women abstained from direct criticism or flagrant disobedience in order to pursue their own goals rather, they appropriated the authorized *majles*, framing their ritual performances with their own interests. They thereby fulfilled central responsibilities, avoided jeopardizing valued connections, and even won approval from male family and religious supervisors. The male president of the Peshawar Shi'a organization, for example, did not hesitate to acknowledge women's contributions to *Moharram* commemorations. They did more for

Imam Husein than men, he said: women spent far more time attending *majales*. Indeed, they maintained connections with each other through less frequent ritual gatherings during the off-season but socialized with other females practically from morning to night, day after day, during the entire two-and-a-half-month annual mourning season. Women were thought to be more emotional and compassionate, more attached to the saints and their sorrowful deaths. The president praised his niece Shahida for her *noha* (mourning couplets) chanting fame. He promoted his sister Mahreen's preaching career and sponsored her *majles* rituals in the courtyard he owned, where Mahreen lived with two other unmarried sisters. The president and others intent on uniting Shi'a into a strong political pressure group recognized the importance of women's gatherings for reaching out to the Shi'a population.

With New Opportunities come New Trials

Able to transcend their narrow ethnic social neighborhoods through entering the consolidating, Mohajir-dominated Shi'a movement's wider feminine ritual arena, the Peshawar Shi'a women did not consider that the greater opportunity for spatial movement through the alternative power framework would entail greater oppression in other regards, particularly for Qizilbash women. Indian-Pakistani Shi'a maintained links with relatives in Hindu-dominated areas. They were accustomed to the intense ritual life, rather fundamentalist worldview, and careful restrictions on women's behavior that provided Shi'a in India with shelters and markers against the Hindu population. The consolidating Shi'a fundamentalist movement in Peshawar influenced Indian women immigrants but affected Qizilbash women all the more; Mohajir language and ritual style were overshadowing Qizilbash ritual practices.

Women from other language groups—such as Pukhtuns and Persian- speaking Qizilbash—who were attracted by the Shi'a fundamentalist movement faced the demise of their own language in ritual practice and interethnic Shi'a interaction. In the consolidation of Peshawar Shi'a groups, Urdu, the language of the Indian Shi'a, gained preeminence. Urdu, the national language of Pakistan, is used in the educational system and is the mother tongue of the Mohajirs, who had mostly come to Pakistan at the time of the partition in 1947 and maintained close ties with relatives and associates in India. Urdu was a natural choice as the Pakistani

Shi'a common language, because any Shi'a who attended public school automatically studied in this language. The use of Persian, the mother tongue of the Qizilbash (a minority among a minority), thus was declining in Pakistan.

For similar reasons, the Mohajir ritual style was becoming more popular at the Qizilbash format's expense. As the consolidating Shi'a fundamentalist movement gained force, Qizilbash women faced the extinction of their own ritual tradition: lyrical, gentle cultural performances. The Mohajirs were the most prominent Pakistani Shi'a group, and, in addition, their more fervent, vehement, and fundamentalist preachings and practices better matched the influential Islamic Republic of Iran brand of Shi'ism and more emphatically responded to extremist Sunni Muslims in Pakistan. Just as their spectacular, passionate ritual processions distinguished Indian Shi'a from the surrounding Hindu majority, their sensational rituals dramatically set off Pakistani Shi'a from the surrounding majority Sunni population.

Shi'a women attained gratifying social support and a sense of belonging by joining rituals, but only in exchange for submitting to peer surveillance and social pressure that enforced rigid behavioral expectations for women. The many sermons they heard decreed the essentializing fundamentalist Shi'ism that fueled Shi'a self-identification in Iran and in Pakistan. Indian Shi'ism's fundamentalist tendency, exacerbated by the explosion of sectarian violence and flourishing Hindu fundamentalism, spread to Pakistan through Urdu media, kinship networks, visiting, and clerical contact. Finally, extremist Pakistani Sunni fundamentalist rhetoric and violence against Shi'a, together with strong Sunni Islamist influence in government, further pushed Pakistani Shi'a into their own defensively fundamentalist entrenchment.

Religious Fundamentalism—a Power Framework Alternative to Ethnic Group Resource and Territory Protection

Seyyed Vali Reza Nasr (1994, 1995) argues that many aspects of current Islamic fundamentalism originated during the partition process between Pakistan and India. Nasr sees Pakistani theologian/ideologue Mawlana Mawdudi as developing a Muslim fundamentalist perspective to safeguard the interests of Muslims within the Muslim state of Pakistan.

> Only if that [Muslim] majority would reaffirm its attachment to the fundamental tenets of the faith from which its identity was drawn would it safeguard its interests. . . . Fundamentalism was. . . the means for creating impregnable walls around the Muslim community. By interpreting Islam as an ideology for a vigilant community, by emphasizing puritanism, the exoteric dimensions of the faith, strict obedience to Islamic law narrowly interpreted, and by discouraging those customs and rituals that resembled Hindu practices or could serve as a bridge with Hinduism, Mawdudi moved to change the cultural milieu of Indian Islam as well as the context in which Muslims were encountering the political choices before them. . . . Fundamentalism, therefore, was at inception nothing more than radical communalism.

Anthropologists will see parallels between using fundamentalism to emphasize Muslim religious/cultural characteristics—and thereby to strengthen the boundary between Muslims and Hindus, between Muslim territory and Hindu territory—and Fredrik Barth's seminal work on ethnicity. Barth suggests that one way for an ethnic group to deal with contact and competition with another under conditions of change is to "choose to emphasize ethnic identity." And "the innovators may choose to emphasize one level of identity among the several provided by the traditional social organization."

Barth focuses on generative processes rather than essentialist entities in examining ethnicity. Borrowing his approach, one can postulate that Muslims who were in contact with Hindus under the divisive partition conditions would develop extreme forms of appearance, behavior, and value orientations to mark their identity and maintain the boundary between themselves and the surrounding Hindu population.

In partitioning India and Pakistan, the religious "level of identity" was emphasized over the ethnic. This process is repeating itself in Pakistan with the religious dichotomization between Sunni and Shi'a through the growth of fundamentalism and extremist groups in both branches of Pakistani Islam and, in correlation, deemphasizing ethnic identity among Shi'a groups.

In earlier periods, Shi'a *Moharram* processions in India had been community events, with Hindus participating alongside Muslims. But as sectarian tension escalated before partition,

Moharram rituals proclaiming Muslim identity and community carried explosive potential. Indian Shi'as' more dramatic rituals had reinforced their separate identity against the majority Hindus and their rich ritual calendar. Those Mohajir Shi'a migrating from India to Pakistan continued practicing their accustomed rituals, which were far more fervent than the rituals of local Qizilbash, who, having lived for generations in Muslim areas, had not faced a menacing Hindu majority. The Mohajir style of *majles* began to supplant their own informal, dispassionate performances and their less strict lifestyles. With barriers of language, ethnicity, and distinctive ritual practice between them and the wider fundamentalist Shi'a community eroding, Qizilbash women had more to lose in terms of attitudinal and behavioral latitude. Although embracing the Shi'a unification movement allowed Qizilbash females a way out of confinement to home and narrow social circle, they now had to deal with greater demands for conformity in dress and behavior and repeated ritual assertions in sermons and symbolism of feminine inadequacy and dependence.

Ethnic Groups and Women's Divergent Ritual Practices

In the past, women in particular had been limited to religious gatherings in their own ethnic enclaves: Mohajirs, Qizilbash, or Pukhtuns. The Mohajirs had settled in the newer Sadar area of Peshawar during the 1947 partition of India. Most Mohajirs were from merchant families and generally lived well on proceeds from Sadar Bazaar area commerce.

Qizilbash Shi'a had long lived in the Peshawar "Old City," where narrow, rambling walkways formed a maze between jutting walls that hid courtyards and homes. Originally of Turkish background, their forebears had been brought by the Persian shahs from Anatolia to serve in their administration and military. The Qizilbash had become Persianized during their long residence in that country. Qizilbash fought for the Safavid state of Persia and then were employed by Nadir Shah during his invasion of India in 1739. While traveling east in Persian service, the Qizilbash had become scattered along the way. A sizable group, still speaking an older version of Persian, lived in Peshawar's Old City. Most Qizilbash women who attended *Moharram majales* lived comfortable lives, supported by male family members' profitable occupations such as merchants or bankers.

Shi'a are a religious minority among Pukhtun; most Pukhtun are Sunni Muslims. The Pukhtun, the ethnic group populating Pakistan's NWFP, were described as unruly and fierce by British colonial administrators. The present border between Pakistan and Afghanistan divides the Pukhtun homeland. More than two million Afghan Pukhtun refugees who fled Afghanistan during the recent war now live in Pakistan. As this ethnic group dominates in the NWFP of Pakistan, some Pukhtun who are asserting their identity and political power have been lobbying to change that province's name to Pukhtunistan.

Pukhtun Shi'a Rituals

Among Shi'a women of these three ethnic backgrounds, ritual practices differed dramatically. For Pukhtun Shi'a, *Moharram* practices resembled some sufi groups' rituals. Male ritual performers in Pukhtun villages, enabled by their faith in Imam Husein's protection, put on spectacular demonstrations walking on coals or piercing themselves without negative effect. Pukhtun women practiced arduous facial self-flagellation, swinging their hands together from above to strike their cheekbones.

For several reasons, Pukhtun ritual practices were not as rapidly displaced by those of the Mohajirs as were Qizilbash rituals. Although Pukhtun Shi'a living in Peshawar might attend rituals with non-Pukhtun, most Pukhtun Shi'a lived in rural areas and were not exposed to Mohajir influence. Pukhtuns dominated in the NWFP and were thus generally more influential than the small Qizilbash minority. Also, Shi'a zealots admired Pukhtun Shi'a because of their dramatic and arduous mourning practices and so did not target them for tactful missionizing, as they did the "lax" Qizilbash.

Mohajir Shi'a Rituals

Mohajir women practiced strict mourning. They attended ritual sessions from morning to evening during the two and a half months of mourning, especially during the first ten days of *Moharram*. Going from one home in Sadar to another, they joined perhaps eight *majles* sessions a day. At mourning gatherings they maintained somber demeanor: they did not talk frivolously, smile, or laugh. They did not wear makeup, gold jewelry, or flamboyant hues of red, pink, orange, or yellow, but wore black on the most important mourning days and on lesser days wore reserved colors such as blue or green.

Mohajir *majles* sessions, conducted in Urdu, began with singing *marsia* (devotional or commemorative verses) while women sat on the floor, sometimes beating their chests. Then a preacher admonished the women about their Islamic duties. Her sermon ended in a martyrdom story while women wept and moaned and slapped chests or legs. After the sermon, women stood while different circles of young women vied to lead *noha* (mourning chants). All the women beat their chests in rhythm to the chanting, often with athletic swinging movements, stretching their arms up high and then flinging their hands back down for resounding blows to the chest. Finally, prayers were directed to the Prophet and other holy figures before the women sat down for a treat offered by the host.

Qizilbash Shi'a Rituals

In contrast to their Indian counterparts, Qizilbash women modified their appearance and comportment very little for *majles* gatherings. Wearing bright clothing, makeup, jewelry, and cheerful faces to *majles* sessions, they chatted and laughed and did not change their normal behavior to step into mourning stance. Indian women therefore criticized them—although not to their faces—for their shocking lack of piety. Until recently, Qizilbash women had conducted their *majales* in their own Persian language. Sitting at ease on the floor, they sang or chanted lyrically about Imam Husein and his family while tapping themselves gently on the chest with one hand. The program might include a *rozah,* or story about Imam Husein's martyrdom. The audience joined in the choruses, but women did not weep or display a sorrowful air during the *rozah* recitation. Rather than frantic, heartrending grief and self-mortifying fealty exhibitions, Qizilbash rituals were quiet, poignant performances.

Mohajirs' Encroaching Cultural Hegemony over Qizilbash

In 1991, women were attending more rituals than in the recent past, both in their own and other congregations, and another change was also taking place: the Indian *majles* model was prevailing over Qizilbash ceremonials. By 1991 Shi'a women and men were beginning to attend rituals of other ethnic groups in addition to their own, as Shi'a consolidated. They thereby emphasized sectarian identity and deemphasized ethnic identity. Increasingly, the ritual language was Urdu, the Indian immigrants' language. All over the city, Husein rituals began to replicate the

Indian format characterized by extreme displays of grief, self-flagellation, and a more fundamentalist worldview. Women were central in the process of pulling different Shi'a ethnic groups into a cohesive unit, and, in conjunction with this unification work, their religious practices became altered. The Qizilbash women's informal ritual interaction and gentle cultural Persian-language performances were being replaced by the Mohajir passionate performances of mourning and fundamentalist sermons about Islamic duty, conducted in Urdu.

One reason for the recession of the Qizilbash performance mode was education. Although government education in Urdu facilitated Shi'a unity by providing Shi'a of various linguistic backgrounds with a common language, such unity came at the cost of diminishing the use of other languages. Qizilbash girls still spoke Persian at home, but in general, the use of that language was declining. Educated young Qizilbash women were now experts in Urdu mourning *noha* and *marsia*. Consequently, chants and songs in Urdu were replacing Qizilbash chants and songs in Persian.

Earlier, all female *majles* narrators among the Persian-speaking Qizilbash had been *rozah-khwani* (reciters of *Maharram* stories) rather than preachers who gave sermons in Indian-Pakistani fashion. But in 1991, only one woman still presented *rozah* in Persian. Shireen had begun performing not long before, when other aging female *rozah-khwani* had retired. At a *majles*, she would intone a story about the Karbala martyrs, interspersed with refrains joined by the audience, especially her daughters and nieces sitting at her feet. During such performances, there was no outpouring of grief, nor was there a sermon admonishing women of their Islamic duties. However, since Shireen delivered her *rozahs* in Persian, only Persian speakers could understand them. Consequently, Urdu-speaking hosts in the Mohajir Sadar Bazaar area did not ask Shireen to come and give performances, and no one else was training to deliver *rozahs* in Persian.

Language learning appeared to be going in one direction only, with Persian speakers learning Urdu but no Urdu speakers learning Persian. As more Urdu-speaking Mohajirs frequent the Old City Qizilbash rituals, and as more Qizilbash become comfortable in Urdu through education, the less welcome Persian *rozahs* will be.

All women who gave sermons in Sadar were Mohajirs and used Urdu. Government schooling in Urdu extended the audience

for Urdu-speaking preachers, and literacy equipped these preachers to deliver orations based on the published views of Urdu language fundamentalist theologians. One afternoon I sat with Mahreen, the most prominent female Indian-Pakistani preacher, as she prepared to deliver a sermon, leafing through and studying first one and then another Urdu book from her small library.

Mahreen was training several Urdu-speaking Mohajir little girls to preach. The eldest sister of the talented Old City Qizilbash singing group spoke with Mahreen about bringing her own young daughter for training. Rather than asking a Persian-speaking *rozah-khwana* from her own Qizilbash background to teach her little girl, a Qizilbash mother was turning to Mahreen, an Urdu speaker of Indian origin. This is another indication of tradition shifting away from Qizilbash practices and toward the Urdu language and Indian Shi'a mode of mourning ritual that was pulling more and more women into the hegemonic, fundamentalist Shi'a community and worldview.

Freedom and Fundamentalism

The Shi'a unification movement offered women mobility and autonomy. Women went to various *imambara* (the house or place of the Imam in Urdu: privately owned ritual spaces; *imambargah* in Persian) in their own area of the city—Sadar Bazaar area, a newer city section for the Indian women, and the Old City, or old part of Peshawar for the Qizilbash. Because women were needed to help consolidate the various Shi'a ethnic groups, they traveled elsewhere as well. Increasingly, women commuted the fifteen to twenty minutes between the two city sections by bus, motorized rickshaw, or automobile to attend the other ethnic group's sessions. Someone told me of a woman who complained—or perhaps it was bragging—about the ten to fifteen young women in her extended family household who frequented *majales*: her bus expenses during the mourning months amounted to 50 rupees a day. At the 1991 ninth of *Moharram* women's *majles* in Huseiniyyah Hall, the public mourning place in Sadar, most of the hundreds of women present were from the Old City or even from towns and villages surrounding Peshawar. That evening, the night before the tenth of *Moharram*—commemorated as the anniversary of Imam Husein's martyrdom—some Sadar Indian-Pakistani women went to the Old City. Like Qizilbash women, they walked, in the company of a few other women only, among the many Old City *imambargah* almost all night long.

Thanks to the more relaxed mobility constraints, the outstanding performance group of Qizilbash sisters attended their first Indian *majles* at a Sadar home while I was present. They listened to the Urdu-language sermon and joined in the Urdu singing and chanting. Warmly welcomed, they stayed a while afterward and exchanged notebook *marsia* and *noha* materials with the host's teenaged daughter. The eldest Qizilbash sister taught at the University of Peshawar, where the host's daughter studied; the national educational system brought Shi'a from different ethnic communities into contact. Later, I saw these Qizilbash sisters perform in a courtyard *majles* hosted by Mahreen, the Sadar Indian-Pakistani woman preacher. The ability to converse with each other and sing and chant in Urdu enabled Shi'a groups of various origins and native languages to commemorate jointly Imam Husein's martyrdom.

Because of intermarriages between Peshawar Shi'a Mohajirs and people in their home Indian communities, women frequently went to India in order to visit relatives and joined *Moharram* rituals there. Travelers visited Iran as well. Women spoke to me enthusiastically of their pilgrimages to Iranian shrines and of their visit, in the company of male relatives and as guests of the Iranian government, to the 1991 commemorations of Ayatollah Khomeini's death anniversary. I met a young couple coming from India on their way to Qom, center of Shi'a learning in Iran, for religious schooling. At least one young woman from Peshawar was also studying at Zeynab University in Qom. Even locally, women's mobility expanded as a result of the Shi'a fundamentalist movement's recruitment of females through education: some females were students at the Iranian Cultural Center in Peshawar.

Even more so than other women, female preachers were highly mobile. Demand for their services gave them a hectic mourning season schedule as well as a wide social network, respect and status, opportunities to study and speak, and even gustatory delights—ritual offerings of food to the martyred saints. Mahreen was surely one of the most sought-after and mobile women in Peshawar. Well-known female preachers might even be invited to speak in other cities, as was common for male preachers.

A number of single, childless, widowed, and even divorced women found in ritual an approved outlet for their energy. Religiously motivated, an active outside life brought women this-worldly power in terms of social support and freedom from

household confinement. One woman, an outstanding performer with a beautiful voice, did not have children. Her *Moharram* singing was her profession, her calling, another woman explained; her strenuous schedule and highly regarded talent helped fill her childless days. One evening she was sick. Her feet had swelled up, she told me, because of so much walking from one *majles* to another. Her husband scolded her: "You're going to get terribly ill if you don't rest. Don't go tomorrow!" She tossed her head in the midst of telling the story. "I told him, 'I'm *going*.' And today I got up and got ready and I'm *just fine!*"

This singer's story, implying that with the Imam's mystical intervention the singer need not listen to her husband, expressed an outrageous sentiment for a Muslim woman, who is charged with obeying her husband. It is ironic that if Mahreen or another preacher of Indian background gave the sermon at the *majles* that this soloist insubordinately attended, she would hear there much about the obligation of pious women to submit themselves entirely to their husbands. She defied her husband for the opportunity to hear that she must not defy him.

This singer's ritual-wrought defiance exemplifies the paradoxical nature of feminine ritual-shaped freedoms. Involved with the Shi'a movement, which offered an alternative power structure and entrance into a wider world, Peshawar Shi'a women encountered mounting fundamentalism and the androcentrism permeating *Moharram* ritual symbolism and organization. Fundamentalist sermons taught women their Islamic duties, such as modesty and *hejab*, or covering; separation from unrelated men; and obedience to husbands. Only near the conclusion of her sermon did a Mohajir preacher turn to the Karbala martyrs. During the almost three months of mourning in 1991, Sadar Shi'a women generally heard several Mohajir-style, fundamentalist sermons a day and some during other times of the year as well.

Community and Coercion

Women aimed at forming a female ritual community as large and unified as possible, cutting across ethnic, linguistic, class, and even sectarian lines. To this end, the Shi'a women attempted to be inclusive, welcoming anyone who came to a *majles*, no matter what her background. They included members of all language groups by making sure there were some chants or songs in the mother tongue of all present. Pukhtun women were usually in a small minority at Mohajir-and Qizilbash-hosted rituals, but at one

point or another, other women would call out, "Now one in Pukhtu, let's do one in Pukhtu."

Even professional singing girls, who were generally looked down on as low-class and lacking in moral constraint, were not turned away. At a *majles* in Mahreen's courtyard, several singing girls started a song at the same time as another group. Leaders waved the others quiet. When I questioned my student Shahida later, she said people had not wanted the singing girls to feel ashamed. At another ritual some half of the females present were singing girls. A young relative of the host mockingly sang a phrase in the nasal, tinny tones supposed to be the singing girls' style. An older woman reprimanded her, and she was quiet. During *majales*, ritual managers attempted to suppress judgmental attitudes toward singing girls, who otherwise could never enter these courtyards.

In actuality, ritual insiders enjoyed advantaged economic standing and pious reputations, and ritual leaders all the more so. However, an apparently open and warmly accepting feminine ritual community—characterized by the appearance of class inclusiveness that ritual regulars so carefully fostered—helped attract higher attendance and the larger community's favor.

As part of their incorporating behavior, women refrained from overtly criticizing others, choosing rather to guide through praise and example. Although Shireen, the Qizilbash *rozah-khwana*, told me in private that the plastic flower decorating the hair of one sister in the eminent Qizilbash singing group offended her, she did not show her disapproval. She also was disturbed that an older Qizilbash woman, a *seyyid* and informal ritual leader, frequently made mistakes even in Persian verses. Asking me to turn off the tape recorder, Shireen spoke quietly into my ear. The woman even said *rahem* (womb), which, Shireen said, "has a bad meaning," when the word was supposed to be *raheem*, meaning mercy. Shireen did not say anything to the woman, though; *seyyids* must be respected, she explained. Even when a woman stumbled noticeably while reading from the Qur'an, there were no raised eyebrows or words of reproach.

Ritual performance seemed to be failure-free; thus, women's *majales* provided a safe arena for developing performance and social skills. *Majles* participation helped women to form a sense of self and identity through comparison and regulated competition with others. They developed autonomy through travel, organizing,

and leadership in the women's community. The few women who were married into another Shi'a ethnic group were particularly well situated to practice mobilizing and administrative skills. An Old City Qizilbash woman was married to a Pukhtun man from the NWFP town of Parachinar. She and her daughter were active in both Qizilbash and Mohajir ritual schedules. With the woman's sister, they sponsored a huge gathering at the large Old City Huseiniyyah Hall that women from all ethnic backgrounds attended. When some Parachinar Shi'a men were killed during a procession, this mother-daughter team inflamed Qizilbash, Pukhtun, and Mohajir women.

The empowering affirmation, social support, and opportunities for personal development that women gained through ritual gatherings, however, were matched by coercion and a patriarchal worldview. Even the mere reciting and going through ritual bodily motions brings its own coercions, as ritual practice theorist Catherine Bell notes: "One might retain one's limited and negotiated involvement in the activities of ritual, but bowing or singing in unison imperceptibly schools the social body in the pleasures of and schemes for acting in accordance with assumptions that remain far from conscious or articulate".

Further, ritual dedication subjected women to female social group pressure and also to male domination even in the absence of males. Because *majales* were sex-segregated, males were generally not present; women themselves were in charge of surveillance, supervision, and management of other women, thus acting as agents of patriarchal control. Women urged other women to attend *majales*. Once involved in rituals, women were pressured to attend regularly. If someone did not show up at a certain ritual, women asked relatives and friends about the absentee and interrogated her at the next opportunity. My students had to have the excuse of exams to be absent. Even then, others criticized their failure to attend *majales*. The warmth and intimacy women received from fellow mourners made their scrutiny and social pressure all the more effective.

By following proper form throughout the course of a ritual, women hoped to earn approval and respect and were thus acutely conscious of other women's surveillance and extremely sensitive to the potentially pointed meaning even in brief glances. Quite unintentionally, I became a part of this process. At one Mohajir *majles*, Shahida's mother and her best friend exchanged

knowing, amused looks after the mother gave a bellowing call for response during another woman's sermon. Then they noticed my eyes on them and immediately retreated into their solemn mourner roles.

Women were susceptible to other women's evaluations regarding their responsibilities for others' deportment as well. At a Qizilbash *majles*, one of the informal ritual leaders, a *seyyid*, felt my eyes on her as she beat herself with one arm, while holding her tiny granddaughter in the other. The little girl was not beating herself. Aware of my gaze (although here, too, I certainly did not mean to reproach), the grandmother took the child's hand, raised it high, and then slapped it back on the little chest. As the child became distracted, looked around, and forgot to beat herself after a few moments of compliantly striking her small bosom, her grandmother (still aware of my observation) repeated this action several times.

Even in the absence of males, women carried Peshawar society's patriarchal tenets and gender expectations into the ritual environment. There, through mutual surveillance and positive and negative commentary, which could be highly subtle or even projected, women managed each other and kept each other within the proper boundaries of their severely patriarchal world. The more prominent female ritual figures were all the more committed to the patriarchal order and earning their male family seniors' approval—and thus to their control functions as well. Female ritual seniors had gained their respected positions through upholding patriarchal cultural and religious values and took their responsibilities of monitoring others' compliance seriously.

All leading female *majles* preachers, performers, and hostesses were related to prominent male activists. Women were beholden to their male supervisors for opportunities to earn fame, freedom, performance competence, and social and spiritual power. These males directed their female relatives' religious careers. After hearing other women talk about her, I began to suspect Mahreen's brother of refusing her suitors in order to keep her single and preaching under his management. Mahreen's brother, a high-ranking Shi'a leader, owned the courtyard where she lived with her two other unmarried sisters and hosted her renowned *majales*. With his sons and other younger male kin, this brother carried in the huge kettles of *majles* food and, after the formal service, dished it into platters that Mahreen's female guests distributed to mourners,

now seated around long tablecloths quickly spread on sheeted courtyard floors. Male physical power carrying in the heavy kettles, financial power funding the meal, and social/cultural power monitoring women's behavior highlighted female subordination and dependency. The relatively great mobility that her brother allowed Mahreen for her preaching engagements did not mean that he also granted her self-rule. In fact, her famous preaching ability and associated roving made her all the more valuable and thus crucial to contain. Outstanding ritual and Shi'a movement contributions by no means freed women from patriarchal authority exerted either indirectly by female social group pressure or directly by male domination.

Although women emphasized *majles* participants' egalitarian status, in actuality, hierarchies of age, talent, education, piety, modesty, personality, activism, self-mortification, family size and composition, social clique, male relatives' positions, and wealth and class disrupted *majles* ideals and enabled elites to dominate the less powerful and subtly coerce them into acquiescing to the elite's ritual administration and control.

Although ritual managers—older, high-status women—allowed young women to shine in chanting and singing competitions, they quietly controlled the course of a *majles* by signaling to each other from back rows. They ruled on contested performance slots, decided when one ritual stage would end and another begin, and monitored behavior with glances and comments. More modest (fully covered and secluded), pious, talented, and assertive women enjoyed greater respect in the *majles* setting. Because these characteristics coincided with ritual status and power, women (or their male relatives) desiring higher Shi'a political positions sought to acquire them. Although other women wore merely the Pakistani *shalwar kamis* (loose pants and long tunic) and *dupata* (long rectangular scarf, put over hair when praying) at rituals, preachers kept themselves covered completely with black veils. The Qizilbash *rozah-khwana* and her daughters wore long black dusters over their clothing. This Qizilbash *rozah-khwana* was the only non-Pukhtun Peshawar woman whom I saw beating herself on the cheekbones. Her piety, modesty, *Moharram* story recitations, extreme self-mortification, and initiation of women's bus trips to out-of-city *majales* gained her leadership status and the respect of even her older sisters-in-law. As female singing circles were usually formed along matrilateral lines, women

from families with a good number of sisters, daughters, cousins, or nieces who were talented, eager performers attained highest performance recognition. Preeminent women had large, extended families whose members, male and female, young and old, were all active in Shi'a rituals and organizations.

In earlier years women had learned mourning chants and hymns by heart. In 1991, though, it was no longer possible to be successful in Shi'a religious life without literacy. Women performers relied on their ability to transcribe the latest chants and hymns, learn, and then perform them, notebook held up for the chorale to read. Preachers prepared their sermons from published materials, and Qur'an and prayer reciters sat at the front of the group and read from a book resting on a black pillow.

Because only 3 percent of NWFP females are literate, Shi'a ritual performers' reading and writing abilities tell us much about their socioeconomic status. All female leaders were related to economically and politically powerful men. Although less obvious than male performers' and hosts' competition, women performers, hosts, and donors carried out status contestation as well. They sought to have the largest and most resplendent shrines, shrine rooms, and battle standards in honor of Hazrat-e Abbas, signs of their own and their family's economic and social success.

Prominent *majles* hosts must be wealthy. They need ritual space—a large separate building or courtyard with adjoining rooms and a room to house shrine and ritual paraphernalia. The Old City Qizilbash community alone boasted more than one hundred such ritual spaces. Shrines or ritual areas differed greatly from family to family and could be quite ostentatious. Some families dedicated an entire room to house battle standards, maybe a covered, thronelike preacher's seat, pictures, statues, candles, and other ritual items. Other families owned whole buildings built specifically for *majles* gatherings. Waiting for a *majles* to begin in one large courtyard, I accompanied other women into the large, separate room built to the side of the courtyard. There, surrounded by framed photographs of the Karbala shrines, black banners inscribed with invocations to the Karbala saints, and glass-protected Qur'an verses in exquisite calligraphy hanging on the walls, the women lit candles placed on a long shelf in supplication to the Karbala martyrs.

Aspiring ritual hosts could not stop at the one-time ritual space investment. Ritual status depended on regularly hosted

gatherings featuring tea, betel leaves, pastries, or even meals feeding hundreds. Hosts required clean sheeting to cover the entire sitting area; serving dishes and utensils; drinking glasses and pitchers; long tablecloths; *Moharram* decorations and shrine items; cleaning, washing, and cooking assistance; transportation funds; and communication means. More prominent figures hosted ten-day ritual series representing *Moharram's* first ten days, culminating in *'Ashura* (the tenth), commemorated as Imam. Husein's martyrdom anniversary. Richer hosts served meals or even, for all-night chanting and self-flagellation sessions, a series of refreshments at breaks: first tea, then dinner, a midnight snack, and finally early morning breakfast.

Naturally, women relished the blessed offerings—the *tabarruk*—given by donors as thanks to a sainted member of Imam Husein's family or to request a specific favor or general health and well-being. The *tabarruk* refreshments did much to sweeten women's *majles* experience and whet their appetites for ritual participation. But as only the well-off could afford the treats that added so much to the *majles's* attraction and convivial social interaction the sense-satisfying refreshments reminded all present that their benefactors enjoyed a privileged temporal position and a gifting relationship with Imam Husein, Prince of Martyrs. Participating in *majales* hosted and funded by politically and economically powerful Shi'a meant that one had to accept the elites' ritual administration and interpretation and to recognize their social and political leadership.

Although a few Shi'a Pukhtun landlord families sometimes sponsored a Peshawar *majles*, it was mainly affluent Mohajir and Qizilbash families who enjoyed devoting themselves and their resources to *imambara* and *majales*. Among both Mohajir and Qizilbash, the top Shi'a organizational officers and most ardent Shi'a activists were also among the very richest. Shahida's uncle owned one tall building of Sadar Bazaar shops and was planning to construct yet another commercial high-rise. The father of the Qizilbash sisters was a highly successful rug merchant and owner of a huge new Old City home with a top story courtyard open to the sky. The eldest sister was married to a prosperous young banker and vociferous Shi'a spokesman.

Both Shi'a urban business and commercial groups had brought capital from elsewhere—the Indian-Pakistanis, money from Indian merchant families, and the earlier Qizilbash settlers, money from

their Persian or Afghan government connections or financial concerns. Most Mohajir and Qizilbash Shi'a continued to have incomes and living standards well above the Peshawar average.

Economic differences between Shi'a *majles* patrons and some non-Shi'a devotees were even more apparent. A great many women at the public Huseiniyyah Hall rituals were Pukhtun village women or even less prosperous Sunni women attracted by both free food and holy blessings. At one Sadar Huseiniyyah Hall women's *majles* I even recognized some young sweeper girls I had seen earlier gathering street brush. Less advantaged women sometimes came to private courtyard rites, licensed by the rule that no one should be prevented from entering. Tabarruk meals served to all comers at the public Huseiniyyah Halls and large courtyard ritual gatherings significantly supplemented poorer women's skimpy diets (and those of family waiting at home) and accentuated the great economic and political discrepancies between themselves and their Shi'a benefactors.

Sugar-coated Power Frameworks

An outsider might well wonder why Shi'a women accepted—in fact championed—the fundamentalist Shi'a movement; why Qizilbash women readily relinquished their own ritual cultural performance format, relaxed comportment, and language for Mohajir ritual mode; or why less favored Shi'a or even non-Shi'a bowed to Shi'a elites' ritual management, interpretation, and style, thus accepting (at least for the time being) their religious; social, political, and economic superiority. Why did women not overtly resist or critique these power frameworks and their constraints, disadvantages, and indignities?

In all three cases, the frameworks' advantages looked so appealing that women sought them out, believing that the rituals would enrich their daily lives, palates, opportunities, spirituality, and social circles. Becoming ritual and fundamentalist Shi'a activists brought women excitement, mobility, fame, artistic development, approval, and higher community status. Adding Urdu chants and hymns to their ritual repertoire and Mohajir *majales* to their ritual schedule made even less prominent Qizilbash women's religious and social lives all the more fulfilling. And, of course, both Shi'a and Sunni women at whatever political and economic level relished *tabarruk* refreshments and cherished the *majales's* spiritual power. Shi'a women, to gain access to beloved

and powerful rituals, an engaging social schedule, a sense of intimacy and community, and political connections, were all too happy to yield to elites' ritual management. Particularly because they lacked other ways to gain such inducements—because of severely restricted access to education, careers, nonreligious outside activity, and even opportunities to leave home seclusion—these Shi'a women found heightened *majles* involvement and the fundamentalist, standardizing Shi'a unification movement highly alluring.

Conclusion: Flourishing women's *majales*—Paradoxical Potential

Ritual contributions to Imam Husein and consolidating Shi'a from various ethnic backgrounds carried contradictory ramifications for Peshawar Shi'a women. In 1991, these women were gaining freedom with their expanding ritual activities. *Majles* gatherings provided them with opportunities for mobility; *majles* participation was a way to get out of the house without endangering their reputations. They were attaining mobility within Peshawar and taking buses to other cities for women's *majales*—without male escort. The Peshawar women were extending their worlds, but their wider-ranging mobility and ritual performances were allowed and abetted by men: their male supervisors defined the borders of their larger worlds.

On the one hand, women could spend time with friends, relatives, and neighbors and develop satisfying and stimulating performance relationships with a close circle of associates. On the other hand, the warm embrace of these associates provided greater opportunity for surveillance and social control over ritual participants. In turning to the wider Shi'a movement's alternative power structure, women were more often in contact with limiting symbolic representations of femininity and confining fundamentalist values and expectations regarding women's place. Yet so compelling were the alternative power frameworks' attractions that women overlooked the associated shortcomings and losses.

Given these observations, one wonders about the long-term outcome of Peshawar women's escalating *majles* attendance and promotion of Shi'a unification. How long can these Shi'a women—especially the out-of -line Qizilbash—resist conformity to the fully veiled dress, seclusion, and behavior dictated by Shi'a fundamentalism? Since their outstanding ritual contributions have

not resulted in males handing over to them the power to define their own boundaries, what will happen should male family and religious authorities decide to tighten once again parameters on female mobility? Continued tension can be expected between the need for females to work as constructors of Shi'a community and as propagators of the Shi'a fundamentalist movement among women and the need to cloister and control females as a central aspect of fundamentalist Shi'a identity. Further, women can be expected to go on taking advantage of that paradoxical tension in their quest for a measure of independence, new vistas and experiences, and community.

Epilogue: The Power Paradox

Sadly, sectarian bloodshed has erupted in Pakistan each *Moharram* since my 1991 research, with the worst occurring in Punjab and then spreading to Karachi. In 1995, bloodshed began even before the *Moharram* mourning period—during Ramadan, the month of fasting for both Sunni and Shi'a, with yet another Karachi Shi'a mosque massacre on February 5 and two more on February 25. Karachi turned into a chaotic sectarian battlefield. Hundreds of people there and in other Pakistani cities were killed in 1995 alone. According to journalist Ahmed Rashid, "The SSP [most violent of the extremist Pakistani Sunni parties] believes in a purely Sunni state and the physical elimination of all Shias. Its hate literarure has flooded bazaars and schools. 'We believe the conflict between Shias and Sunnis can never be eliminated,' Azam [chief of the SSP and a Parliament member] said recently. 'We believe the Shias are not Muslims.'"

The Shi'a, in response, have organized into political groups, and some extremist Shi'a have committed violence against Sunnis. Emphasizing the need for dialogue and government intervention to prevent disaster, in a Shi'a publication Asif Hussein pointed to the escalating seriousness of the sectarian crisis: "In turn, [the Shi'a] have created a group calling itself the Sipah-e-Muhammad (SMP), which now claims to have thirty thousand members. Its headquarters, in Lahore, is guarded by gun-men and they claim to have already retaliated against the SSP and vowed to counteract any further actions with equal force."

Because of the sectarian violence, many Pakistani Shi'a continue to perceive themselves as under siege and believe they must build from divergent Shi'a congregations and ethnic groups

a garrison of fundamentalist Shi'a unity. One can therefore expect the contradictory tension inherent in the position of fundamentalist Shi'a women to escalate. Under such threatening conditions, women are all the more needed to reach out to different Shi'a groups, weaving them together, and to propagate Shi'a fundamentalism among women. Yet a primary symbol of Shi'a fundamentalist identity is the seclusion and restriction of women. How will these paradoxical pressures play out? To recruit women, movement organizers must find ways to make activism appealing to women. Yet they must also be able to contain and control women and their work and abilities. To be competent roving spokeswomen and outreachers, women must be granted some mobility, autonomy, self-development, and community support. The more they gain, the more effective they can be for the Shi'a movement, but also the more astute and the more prepared and powerful they will be if they get out of control and decide to take their abilities and passions in other directions. This power paradox inherent in women's *majles* activism conveys a mutable and malleable gender formation—even in this apparently gender-rigid environment—enabling women to seek subtly personal advancement as well as gender slippage and transformation.

Women supported the Iranian revolutionary movement, marching in revolutionary demonstrations—modeled after *Moharram* mourning processions—in numbers equal to men, only to face heightened modesty requirements and mobility restrictions under the ensuing Islamic Republic. Even in the Shi'a fundamentalist Iranian Islamic Republic, however, women slip out of control and containment. Shahin Gerami found that middle-class Iranian women did not accept all of the teachings of the Islamic Republic officials about females and their place. Women answering her survey rejected sexual spacial segregation and thus also the belief that women should not work as they do not belong in public space. Some Iranian women are cultivating the means to dispute patriarchal religious authority—even within the pages of government-sponsored women's publications and on the panels of government-sponsored women's conferences.

During the Iranian Revolution, and other revolution/ movement/ conflict/agitation periods from the French Revolution onward, women were allowed greater freedom, mobility, and leeway in order to assist in the struggle. "Afterwards, male

ideologues try to edge them out of leadership and visibility," Erika Friedl observes. But it is not easy to do so. "As the Iranian case shows, women are not likely to be silenced completely or for long."

In the short run Pakistani Shi'a women will probably maintain loyalty to their threatened community and thus be distracted from considering their own separate interests. But that will not be the end of the story.

4

Muslim Women in British India

Many Indian writers and activists in nineteenth-century British India made the subject of women a central topic in their programmes of cultural reform and redefinition, expressing this concern, above all, through the newly available medium of print. Hence the story of reformist movements related to women is, in a fundamental sense, a story of the writing and circulation of vernacular pamphlets and books. The network of those who shared reading materials comes to constitute distinctive groups, defined in part by the very act of what they read. This process was true for all kinds of groups, but was particularly striking in the case of women among whom many, for example, did not go to public meetings or schools. The emphasis on reading also suggests the extent to which these were primarily movements of the elite.

Why did issues related to women become so important? Recently scholars have insisted that the emphasis on women cannot be explained simply as the old colonial historical narrative would suggest. That story goes like this: the British came; they recognized the depravity of purdah, widow burning, child marriage, and female infanticide; sensible Indians immediately recognized a superior culture when they saw one, and, thanks to British tutelage, they began the 'regeneration' their society needed. Historians like Lata Mani, looking closely at the key issue of sati among Hindus in Bengal—where the colonial narrative was

primarily forged—have convincingly demonstrated that the British used certain customs (including sati which involved only the tiniest fraction of the population) as the site to at once legitimize their rule and also to identify an Indian 'tradition' that was in fact of limited provenance and importance.

An emphasis on issues related to women established, at least to themselves, British moral authority on gender roles. Moreover it allowed Britons to characterize Indians as effeminate on the very grounds that their men failed to 'protect' and 'respect' women as they should. Such emphases had far-reaching effects on fundamental British conceptions and institutions. By this argument, issues related to gender in Victorian England itself cannot be understood apart from the colonial context. Although I can only allude to these issues here, they are suggestive of a broad trend in the study of the colonial period today that insists on a model not of 'impact' and 'response' but of mutual change in both societies.

As for Indians, excluded from many aspects of political life, it was only in creating domains of 'religion' and 'community' that they could find permissible arenas of power. Those wishing to establish themselves as 'leaders' with access to official power, of necessity interacted with, even as they transformed, the concerns of their rulers. Indians, not just Britons, were active participants in shaping the colonial experience.

The content of Bengali Hindu social reform was to have far reaching implications. The social reformers ultimately identified the middle class, educated housewife with nothing less than the preservation of 'Hindu' religion and culture, and even with India itself as Bharat Mata. The 'New Hindu woman' was at once different from the unreformed, poor, and uneducated women; from English women, who were both a model and a threat; and from non-Hindu, above all Muslim women. To the extent that such an image was at the heart of Hindu cultural nationalism, it helps explain the failure of political nationalism to engage the imagination and commitment of large segments of the population. The new Hindu woman in the nineteenth century, as now, represented a minority. The historian Partha Chatterjee, sensitive to the alienation of large segments of the population from contemporary political structures on the one hand and to the latter day manifestations of Hindu 'fundamentalism' on the other, has seen in these reform movements a negative legacy that the conventional narrative ignores. That the shaping of the

'particular' or 'communal'—in which issues of gender were so important—was to be fundamentally political is only too obvious today.

When we turn to the subject of Muslim women, certain themes clearly overlap with these. First, the colonial context is critical. That context, however, worked in a variety of ways and was evident not only in ideas and policies as such, but in the very structure of colonial rule. Some Muslims engaged with the official British discourse on women, much as Bengali Hindu reformers did, but others, although still responding to the colonial context, forged a more autonomous agenda. Secondly, while claiming to offer universal messages based on an enduring 'tradition', different reformers spoke to different groups. 'Tradition' turns out to be both variable and recent, although the very quest for an 'authentic' tradition is itself a characteristic of this period of colonial rule. A third theme that runs through these reformist movements is the critical importance of print media and of restricted literacy, noted above. Scholars now recognize the importance of print capitalism in the spread of nationalism, but vernacular publications have been critical in creating more narrowly limited solidarities as well. The remainder of this paper reviews three different reformist movements related to Muslim women in British India, and in so doing suggests new solidarities, both among Muslims and, implicitly, between 'Muslims' as a putative whole and other communities, divisions where women have been a pre-eminent symbol.

Listening to the many voices raised concerning the behaviour of Muslim women in the half century or so before Independence, it is notable, first of all, that we can distinguish different styles of argument. Near contemporaries in a common cultural area, all of whom base their position on shared scriptural sources, offer a variety of interpretations. Those seeking change today can thus query how far positions that are presented as having absolute authority and historic depth in fact do so.

Most striking of all is the very fact that, while the protection and control of women has been an important theme historically, the notion of women as themselves repositories of normative tradition and moral exemplars was not. In Brahmanic priestly texts, after all women, like 'low-born' sudras, were threatened with molten lead in their ears if they heard the Vedas. Public symbols of Muslim identity, the mosque, and the *khanaqa*, have

been pre-eminently associated with men. Men learned Arabic and conventionally carried distinctive Islamic names; women knew the regional languages and their names often evoked only beautiful qualities or flowers. Today, in contrast, in many contexts women are expected to be the public signs of Islam, by their dress and deportment and, beyond that, to master and practise distinctive Muslim teachings. This suggests a shift in the boundaries of public and private from an ideal long held in Islamic societies: women are, ironically, now part of public life. It is talk about women that fills public space.

As a partial baseline against which to measure these changes, we can place the model of women that pervades much of Muslim letters, notably the advice books for aristocratic men, that present women as *fitna*, as a source of potential disorder and, essentially, as adherents to a pagan past. Women are potentially out of control. Persian ethical guides that were part of the education of generations of privileged men, like the *Qabus nama* or the *Akhlaq-i nasiri* or Yusuf Gada's *Tuhfah-yi nasa'ih*, confirm what can only be called a conventional misogyny in relation to women. These texts certainly do not encourage education for women.

They are particularly detailed on the choice of brides who should, for example, be 'lower' than the husband 'in years, height, rank, and wealth'. Yusuf Gada's verse continues:

You should never marry a short fat woman or a tall thin one:

You should never marry an older woman; she will bear a worse son.

You should never marry a woman who weeps, nor one with hairy legs;

Avoid a demanding one who is an ugly deceiver.

The woman who causes trouble, with prancing legs and feet.

A woman should speak softly, not complain, not go out without permission, not eat before her husband. Yusuf Gada, reviewing the problems of wives, recommends a concubine 'for ease in this world'.

The reformers of the late nineteenth century associated this picture of women with what came to be seen as the decadence of a nawabi lifestyle, summed up by the female figure of the courtesan. When turn-of-the-century Hindi playwrights took up the controversy over Hindi and Urdu as official languages in a debate

that helped undermine the old shared Persianate culture of the elite derived from Mughal days, it is significant that they represented the two 'languages' as women: Hindi (written in a script derived from Sanskrit) was a respectable cow-and-Brahmin-nurturing matron, while Urdu (written in Perso-Arabic script) was nothing less than a heartless aristocratic strumpet. Queen Devanagri was, in fact, as much the image of the new middle class Hindu housewife as of any queen; Begum Urdu was the unreformed and uncontrolled woman, projected, one might suggest, onto a Muslim from outside. Ironically, Muslim reformers disavowed such an image no less than did Hindus.

Muslims did not only question the old cosmopolitan tradition; they also challenged local traditions where, also far from guarding normative Islam, women came to be seen as engaging in regionally shared life stage ceremonies and 'superstitions'. The regional culture and its language are identified in some contexts with the *nafs*, the faculty within the person that opts for the self-indulgent, in contrast to *aql*, the good sense that adheres to discipline and self-control, as elaborated in texts of ethics and moral formation. Some traditions explicitly link women to the impulsive and childlike qualities of *nafs*, so that in women's association with regional traditions these two themes are powerfully joined.

Clearly, while this 'baseline' image draws on two different streams of tradition, one cosmopolitan, the other local, both posit women as, above all, disorderly and a stimulus to disorder; they are far from being the guardians of Islamic morality and truth. Similarly, the Shariat tradition, formulated in legal thought and guarded by scholars from the earliest centuries of Islam, focused not so much on women's own moral and intellectual life as much as on control of their sexuality. The jurists demanded that women be secluded; their contact with men of marriageable degree; highly regulated; and their presence in public space, even the mosque, discouraged. The Shariat is of course realized in different ways in different contexts, but these have been persistent themes.

In contrast to all those models that focus on the need to impose external controls, the reformers invariably turned to other themes in the Shariat. Despite their differences, all were united by an interest in shaping women's character and knowledge, not merely in defining external controls. In doing so, moreover, the reformers were also alike in speaking to the 'particular' community—'Indian Muslim'—defined by the colonial culture.

The movements varied, however, to the extent to which they engaged with the actual critique of Indian women articulated by Europeans. They also varied in what they emphasized as an Other or an 'enemy', on the one hand, and models, or female ideals, on the other.

The Ulama : A Single Standard

The late nineteenth century saw far-ranging attempts to preserve Muslim education and standards through networks of popularly supported ulama, new formally organized schools, and an extensive programme of publication and translation into the vernacular. While clearly both stimulated and made possible by the colonial presence, the ulama at the heart of these movements did not know English or speak to the content of European norms about women. They extended their instruction to women in part because they sought a popular audience of Muslims who were not merely Muslim in name but who demonstrated a high level of commitment to Islamic rituals and practice, a goal that urgently required female participation, as the target of religious teaching focused not on rulers and worldly elites but on families and individuals. The desire to include women in normative standards was charged with anxiety, given the complex range of cultural themes noted above: in challenging women's regional practices, for example, the reformers were confronting what was presumably part of the fabric of their own everyday lives.

For the *ulama* in the late nineteenth century, the model of the European woman or Europeanized Indian woman was ignored; similarly irrelevant was the Hindu woman. It is important to underline this silence since the opposite is often wrongly imputed. What was significant was only the 'enemy within': the unreformed, uneducated woman who did not know Islamic doctrine, was caught up in expensive and corrupting ceremonial practices and handled badly the responsibilities of her everyday life. While the teachings of the ulama implicitly distinguished Muslim women from non-Muslim women, they explicitly drew the line between the proper, well-brought up Muslim woman and the ignorant one whether she was rich and self-indulgent or poor and misguided.

The teachings of the ulama were meant to secure a better moral and material life for women and their families. Some challenges to custom were seen as securing women their rights: marriage customs (that entailed isolation and deprivation before the ceremony) were regarded as a source of privation and suffering;

the prohibition on widow remarriage was considered to cause unfair suffering; the disinheriting of women, as both unfair and un-Islamic. The insistence that women should be able to read and write so that they could know religious texts was essential to both worldly and religious welfare. Of course, women were still expected to play their proper role: of deference to their husbands and of fulfilment of a range of household obligations. They were to avoid any public life and even avoid undue outings from their home.

For all that, the teachings of the *ulama*, grounded in Qur'an and Hadith, were striking in the significant respect that they did not elaborate a difference between women and men. There was of course the crucial difference of role that placed women squarely in the home. But in terms of essential nature and potential, women and men were regarded as one. The assumption that any patriarchal system must posit notions of a distinctive female nature of male-female complementarity and, hence, of 'opposite sexes' is clearly wrong. One of the pre-eminent texts of the ulama, the *Bihishti Zewar* of Maulana Ashraf Ali Thanawi, written in the first decade of this century, has been read to confirm those opinions, but such is not the case.

Thanawi argued that women and men are endowed with the same faculties and that both are responsible for their conduct. Both must contend with the fundamental human condition of the struggle between intelligence or sense, *aql*, and the undisciplined impulses of the lower soul, *nafs*. Looking around him, and heir to a certain 'common sense' in his society, Thanawi believed that women were more likely than men to be troubled by *nafs* but, to use modern language, he found this situation culturally, not genetically, determined. If properly educated, women have every potential of men. At the same time, they are not superior. The home is not (yet) the haven of Islamic life, nor do women have any special spiritual capacity.

Girls, like boys, had to study. Thanawi demonstrated none of the nineteenth century European pseudo-science that suggested that too much study was detrimental to girls; nor did he and his fellow ulama assume that certain subjects—certainly not the novels and poetry deemed appropriate to European girls—were suitable, less of a strain, for girls' delicate nature. Girls should learn Arabic and read the same texts as boys:

> In a short time, God willing, you will... become a maulvi—that is, a scholar of Arabic. . . . You will achieve the rank of a

> learned person, and you will be able to give judicial opinions, as learned men do. You will begin to teach Arabic to girls, just as learned men do. . . . You will be granted the reward equal to that bestowed on each person to whom you have given guidance with your preaching and opinions, teaching and books.

Words rarely used of women today—maulvi—are readily used here. Far from exalting 'domestic science', Thanawi dismissed cooking and sewing as subjects that could be learned in weeks and should not be allowed to waste all one's time.

Thanawi included in his book one hundred anecdotes concerning good women. Here again we find unlikely terms: they are *badshah, hakim, ustad, alim, sardar, buzurg* (emperor, doctor, teacher, learned, chieftain, elder). The stories are moreover introduced by the story par excellence, that of the character of the Prophet Muhammad. There is no separate standard for women, but rather a common model of humanity for both. '[The Prophet Muhammad] was very gentle. . . At night... he would do everything very softly, so that no one's sleep would ever be disturbed.... When he was happy he lowered his gaze. What young girl would have been as modest as this?' Thanawi included among his anecdotes stories of the two prototypical women in Christianity, Eve and Mary: Eve as a model of true repentance, not temptation; Mary, a model of obedience and piety, virtues not specific to women. Fatima, a more central figure in Muslim tradition, is also depicted as an embodiment of core values.

The conclusive evidence that Thanawi enjoined a single standard of behaviour for women and men was his response when he was asked to write a companion guide, a *Bihishti Zewar* directed to men. He replied that the existing book would serve perfectly well—he simply added an appendix describing practices such as the community prayer specific to men. Indeed, the English translations of the work in use today (which leave out the sections pertaining to practical domestic life) give no indication that the book was once meant solely for women. It is hard to imagine a guidebook for women written around 1900 in Europe or America that could also be recommended as a proper guide for men.

What distinguished the proper Muslim woman? Thanawi provided the answer to this question with a list of characteristics, all the fruit of proper education. Literate in Urdu, a good woman revealed herself when she opened her mouth, for her language

was clear and correct. Second, she fulfilled her religious obligations correctly. Third, she kept her house in perfect order. Fourth, she raised her children to be of good character. Fifth, knowing each person's rights and obligations, she sustained proper hierarchic relations with all. Finally, because she could write letters, she could handle intimate matters without divulging them to intermediaries. Since all these achievements were increasingly seen as marks of respectable status, Thanawi's readers should have concurred that education was worthwhile—as well as being religiously correct.

The teachings of these 'ulama were not revolutionary, but they are notable in two ways in particular. First, they arose largely independent of any engagement with European critiques of Indian women and they did not define themselves by either emulating or opposing a European pattern. That only familiarity with European critiques and models of women stimulated reform is not the case. Second, they spared women what can be seen as the burden of being idealized as especially gifted for domestic life and endowed with purity and moral sensitivity: there is no Victorian elaboration of a female specificity, placing woman on a pedestal or proclaiming the apotheosis of woman as the 'angel of the house'.

The Social Reformers and Apologia

Another group of thinkers who also flourished from the turn of the century, adopted a stance in some ways similar to that of the ulama. Those, whom we might call social reformers, also challenged the behaviour of the uneducated woman, given over to customary practices and unfamiliar with Islamic teachings. At the same time, however, their work was charged with interaction with an interlocutor, implicit or explicit, in the models of European women and the critique Europeans levelled against the treatment of women in Islam. This influenced the very issues they chose to address as well as the interpretations they put upon them.

The reformers accepted the educational agenda of the ulama, but made it at once more European and more agenda specific. They shared a commitment to 'restoring' some Islamic legal rights, but focused less on those that challenged vested interests (like female rights to inheritance). Responding to European criticism, they denied (or redefined) the Islamic tradition of polygamy, a subject to which Thanawi, for example, gave no notice, and they tried to modify purdah.

Recent scholarship has gained some distance on the so-called social reformers—the category of Hindu spokesmen discussed above—who were once exclusively praised as heralds of 'renaissance' and reform. Whether Hindu or Muslim, they are now seen at least in part as colonial collaborators, people who basically accepted the overall framework of British rule and sought to identify with its core values. These are, above all, people who internalized the Orientalist argument that Indic traditions had fallen into decay and stagnation, and argued that they could, perhaps, regain vitality through education and reform. Their agenda formed a bond between them and the British.

Sayyid Mumtaz Ali, for example, who with his wife founded a newspaper for women, took up an agenda largely set by the English: polygamy, the age of marriage and the girl's right to approve or the marriage, the role of the wife in the marriage, purdah, and the need for education. In every case he claimed to be following true Islamic practice. Like the ulama, he was keen to see girls educated, but he favoured a more cosmopolitan approach to education, allowing them, for example, to read the old Persianate tales and epics (that the ulama judged decadent), as well as history, geography, and science.

Mumtaz Ali argued that men and women were equal, insisting that physical strength was a trivial measure of superiority and that in all important aspects, including intelligence, all humans were the same. If the Quran discounts a woman's testimony, he insisted, that was because of social conditions that deprived her of experience: it did not suggest any inherent defect. He circumscribed the husband's right to polygamy (suggesting that the sanction was for serial wives or at least that it required the wife's permission). He accepted purdah as natural to human nature, but sought to modify its limitations so that women could visit public places or attend meetings in their husband's company. Men remained the actors: it was they who granted women education; they who were called upon to be generous to women.

Mumtaz Ali's ideas were shared by many of those associated with the westernizing movement at Aligarh. Sayyid Ahmad Khan himself had focused attention on education for women when, on his trip to England (1869-70), he had written home in despair after finding scullery maids, unlike aristocratic women at home, able to read and write. Nonetheless, he himself had little interest in encouraging girls' schooling, preferring to let education for boys

filter down. Others of his associates, Shaikh Abdullah, Hali, and Nazir Ahmad, however, were, like Mumtaz Ali determined to seek change directly. Hali, as early as his *Majalis un-Nissa* had urged a basic vernacular education for girls, imparted in their own homes. Nazir Ahmad's novels held out living examples of the fruit of education and behaviour along the lines encouraged by Mumtaz Ali. Nazir explicitly depicted models of happy English homes and introduced a competent English lady doctor among his characters, as he tried to persuade his readers that educated women could best perform their domestic and religious duties to the benefit of all.

In 1906, after years of discussion in the Mohammadan Educational Conference, Shaikh Abdullah collaborated with his wife in founding a separate school for girls in Aligarh itself. The school was supported by aristocratic and government subventions, and sufficiently committed to supervision and purdah to win the support of the elite. By the time a proper building opened in 1914, the school had a European woman principal and English was taught one hour a day; by 1937 it offered degree classes. The school inculcated an ambivalent attitude to Western models of female behaviour which were regarded as at once exemplary yet less noble than those sanctioned by Islam at its best. Less ambivalently, it imparted the message of social reform as a characteristic of an aristocratic *(sharif)* life, thus fostering a distinctive elite cultural style for women that contrasted with that of the vast majority of the population.

In this regard, the work of a female advocate of social reform, the Bengali woman, Rokeya Sakhawat Hossain (b. 1880), is notable. She lobbied endlessly for education for girls and for an end to the excessive absurdities of seclusion. During the first decades of the century, she too wrote widely for the *sharif* classes like her own, typically people with landed wealth and ties to the British government and educational institutions. As the wife of a civil servant, Rokeya was able to see the advantages reformed Hindu women had in gaining access to the new culture of their husbands. She argued that women, admittedly weaker and appropriately dependent on their husbands, needed education to fulfil their domestic role properly. Above all she insisted that the extremes of purdah which she chronicled in her *Avarodhbasini* as both 'comic' and 'excit[ing] pity', must be ended.

Rokeya added a woman's perspective to these teachings, arguing that the current situation created an unbalanced cultural

development (as she said on one occasion), as if a single body were five feet on one side and four feet on the other. Beyond that, she added a pointed edge to the discussion, nowhere more strikingly than in her *Sultana's Dream*, written in 1905, a fantasy of a utopia where men were kept in seclusion and women ran the country. She pointed out that if women were secluded to protect them, that end could be more effectively met by containing the potential aggressors. Would you, she asks, 'imprison the sane people of a country if a lunatic escaped?'

Equally striking, in contrast to the main thrust of early social reform, Rokeya recognized the needs of poor women. She organized a voluntary association of Muslim women to attempt to spread literacy to slum women, coupled with simple instruction in health and childcare.

Two themes in her writing were to become increasingly prominent as the century wore on. First, she saw not only the advantages that accrued to European women because of their education and relative freedom, she also identified what she felt to be the victimization of women by Western men and their laws. One writer has called this kind of mixed judgement 'the two sides of Occidentalism'. The first was the idealization of educated European women who serve as a model; the second, the ever stronger identification of Western women and their westernized imitators as the powerful Other against which, in principle, one defines oneself. This was not sufficient, however, to secure Rokeya from popular criticism that she was mouthing the critique of foreign observers about her own people. Second, albeit in her fantasy, she struck a note of spiritual and moral superiority on the part of women. In her dream the Queen explained how she allowed trade: 'No trade was possible with countries where the women were kept in the *zananas* and so unable to come and trade with us. Men, we find, are rather of lower morals and so we do not like dealing with them'.

A second Bengali, Ameer Ali, the enormously erudite and sophisticated lawyer and writer, further developed these two last themes. His celebrated work, *The Spirit of Islam*, was written in English and first published in 1921 in London. Usually characterized as apologetic, the work was meant to be 'the history of the evolution of Islam as a world religion' and it ranged over the whole of human history, typically contrasting the shortcomings of other religions in comparison to Islam. Ameer Ali avoided

discussion of contemporary problems and the need for reform, preferring instead to demonstrate the superiority of Islam as properly known. His concern with meeting the prejudices of non-Muslims gave shape to his argument. Thus in his treatment of women, he focused most on the criticism of Islam as supporting polygamy. One recalls that Lutfullah, an early nineteenth century traveller to London, commented on European monogamy only in terms of its advantages for securing household order, a persistent theme in the Persianate *adab* literature described above. In this period he did not need to confront the European critique that engaged Ameer Ali some hundred years later.

Ameer Ali, in contrast, insisted that polygamy was 'an unendurable evil', the result of a particular situation of warfare. He showed its prevalence throughout all traditions. He insisted that in Islam there was effectively monogamy because of the requirement that a husband take only one wife unless he could show impartiality, a patent impossibility. He freely quoted Europeans who supported his views and cited as well those he felt he had to refute. The very choice of this issue, on his own account relevant only to a miniscule proportion of the population, indicates that his concern was not current behaviour, as it was with other reformers, but rather an assertion of cultural pride and a refutation of what he judged were biased critiques. His insistence on the cultural superiority of Islam to the West was to be an ever more important theme in later Islamic movements.

Similarly, Ameer Ali for the first time developed the theme of difference between women and men that identified women as spiritual and moral. As noted above, this had not been a classic theme either in Islam or in European thought. For Ameer Ali, for example, the Prophet's daughter Fatima was 'the embodiment of all that (was) pure and true and holy in her sex—the noblest ideal of human conception'. 'The idealization of womankind', he wrote, 'is a natural characteristic of all the highest natures.' More specifically he identified chivalry toward women as more intimately associated with Islam than with any other faith or institution: a gift to Europe via Andalusia. His vision of domestic relationships suggests a modern pattern of nuclear families, not that of a multiple extended household in a tribal society. With Khadija, he wrote, the Prophet enjoyed 'an uninterrupted sunshine of faithfulness and happiness. . . [she was] his sole companion and helper'. The idealization of women and the idealization of

domesticity went hand in hand, its inspiration more European than Quranic.

The Islamist Movement: Opposite Cultures and the Opposite Sex

By the 1930s a further voice was added to the discussion on women, that of the 'Islamists' who purported to challenge the existing structure of social and political organization in favour of a new Islamic order. Most notable in the Indian subcontinent was Abulala Maududi, whose Urdu journal, the *Tarjuman-ul-Quran*, and frequent publications set the issues for his society, the Jamaat-i Islami. Maududi, like many who were to be active in this movement, was not trained in the classic religious disciplines of the madrasa; on the contrary, much of the leadership came from the secularly educated who independently gained expertise in religious texts. The movement as conceived in the 1930s has been compared to fascist and communist movements both in its emphasis on the importance of creating cells of committed followers and in its ultimate goal to control the institution of the modern state.

Maududi, unlike the social reformers, denounced European women. Typically his work dwelt at length on the horrors that followed upon the freedom of Western women. Against this he set not the actual life of women in Muslim societies but an ideal of social life, accessible if at all only to the more privileged classes, he found in Islam. Compare this to Rokeya who retold the comic-tragedies that befell women trapped in houses or swathed in burqas, or to Maulana Thanawi who deplored the frustrations of female illiteracy or the pointlessness of 'sitting *maiyun*' for a bride before her wedding.

In 1935 Maududi published a series of articles in his *Tarjuman-ul-Quran*, subsequently published in many editions as *Purdah and the Status of Woman in Islam*. At first blush Maududi's work seems like Ameer Ali's in taking up broad historical themes and in looking at issues related to women in a number of historical settings, only to find that Islamic doctrines defined a superior status for women than did any of the others. Unlike Ali, however, Maududi was particularly concerned to show contemporary abuses of women in the West. His works, like the works of others in his movement, drew not on Western legal or religious texts, but on newspaper accounts, investigation of abuses, conservative

sociological critiques, and medical accounts written by Europeans themselves. His successors, ironically, read feminist journals like *Signs*. Maududi found three pernicious doctrines that subverted what he presented as the very order of nature: the equality of women, the economic independence of women, and the free intermingling of the sexes. For him they were the source of the entire decay of society, a reversion to animal passions instead of control, and the undermining of all mental and moral capacities.

As part of the colonial experience, however, he argued that these ideas had taken hold among Muslims, or so-called Muslims, as well. Maududi's intended audience, unlike Ameer Ali's, was not westerners at all (or at least not primarily); instead it was the westernized, those he called the 'Oriental Occidentals' who mimicked and parroted the West without knowing the implications of what they were doing. He challenged them by what he called the very laws of nature that define sexual and marital relations, and set out the Islamic teachings on women that form the basis of a correct social order. The teachings of all the social reformers implicitly drew sociological lines, above all a line that excluded poor and uneducated women. The reformist ulama also excluded the women of nawabi culture with their cosmopolitan tastes. Now another line was being drawn, in this case to exclude the new cosmopolitanism of the westernized, typically those with access to a European style of everyday life.

Maududi was clear that Islam recognized the 'natural superiority' of husband over wife. He spoke in terms of rights for women: the right to receive provisions from husbands; the right to inheritance and to control their own money; the right to refuse marriage against their will (but not to choose against the will of their families). A woman's duty is to run the house. She is severely curtailed in leaving the house and in undertaking any kind of journey. Maududi insisted that women's education was as important as men's, but that 'the right sort of education for woman is that which prepares her to become a good wife, good mother and good housekeeper. . . she should be trained primarily in those branches of knowledge which make her more useful in that sphere'. The contrast with Maulana Thanawi is marked. While Thanawi shared the opinion that women should stay at home, he dismissed household lore as something that could be learned in a few weeks, and encouraged women to undertake precisely the same serious

studies as did men. Women, Maududi repeatedly says, are the 'queen' of the home, but the society that would give them public authority is doomed.

Maududi's elevation of domestic knowledge and skills went hand in hand with a new elaboration of women's difference. Women were not merely different from men in role and hierarchy. We now find women as essentially different in kind: they are opposite to men. Woman is 'by nature emotional and sensitive and inclined to extremes.' Critical to Maududi's argument is the use of the modern medical differentiation of women from men that posits an essential physiological difference between them. He exuberantly cites European specialists on menstruation and pregnancy, adducing descriptions of mental imbalance, derangement and, at best, lack of concentration to prove scientifically the importance of secluding women. It thwarts nature, he says, for women to follow the same careers as men:

> Since biologically woman has been created to bring forth and rear children, psychologically also she has been endowed with such abilities as suit her natural duties. This explains why she has been endowed with tender feelings of love, sympathy, compassion, clemency, pity and sensitiveness in an unusual measure. And since in the sexual life man has been made active and woman passive, she has been endowed with those very qualities alone which help and prepare her for the passive role in life only. . . . That is why she is soft and pliable, submissive and impressionable, yielding and timid by nature.

Writing in pre-Independence India, Maududi deplored the intrusiveness of the political and cultural life that thwarted this vision of a proper society of which women were the key. 'The principles of un-Islamic morality and the ideas of un-Islamic civilization have spread like germs of plague and cholera', he wrote. Films, music, un-Islamic dress, education that diffused the 'moral ideas of the West', the replacement of the Islamic Penal Code by British law, all made for continuous assault on proper values.

With lines drawn against the westernized elite, and secondarily against the poor and uneducated, Maududi and his fellow Islamists planned an Islamic social order but in fact retreated to focus on the arena opened to them, that of the home and, above all, that of women in the home. They argued that restrictions on women,

above all those associated with purdah, be strictly adhered to in the interests of the social and moral order as a whole. Their idealization of domestic space and of women as queens of that space, endowed with unique personal qualities, at once idealized women and made them subject to male control, in a pattern familiar in modern Europe as well. This pattern has proven remarkably enduring in the contexts of religiously defined cultural resistance, characteristic initially among Muslims in British India and then subsequently in ideologies widespread in the independent successor states.

Conclusion

The three distinctive positions in relation to women outlined above all assume that women will play a (primary or exclusive) domestic role. All speak moreover, to the relatively privileged in society where women do not need to work in the fields, clean other people's houses, or engage in petty trade: this is, after all, a story of written texts and of people who read them. This reinforces and redraws hierarchies. The ulama and the Islamists not only stand apart from the poor but also criticize the cosmopolitan classes caught up in what are seen as either nawabi or Western social practices, thus placing the respectable middle classes as the (potential) model of correct behaviour for all. Those evaluating various reformist positions must disentangle the socio-logical implications of ostensibly universal arguments. In this regard, Rokeya, with her attention to poor women, however limited, reminds one of alternatives. In contrast, Akbari, Nazir Ahmad's quintessential unreformed woman, is marked negatively from the opening words of his celebrated didactic novel, the *Miratu-l-Arus*, because she shares the company of poor, uneducated women.

A second area of difference is in the attitudes about the essential nature of women. The glorification of women's special qualities, argued by Maududi, turns out not to be 'traditional'. Here, perhaps surprisingly, 'ulama like Thanawi, far less caught up in European models and critiques, strike a distinctive note. He insisted that women were in the end essentially like men, some good, some bad, with the same moral and mental make-up and the same intellectual potential. Humans vary, he says, quoting a Persian couplet that 'God did not make identical the five fingers of a hand'.

A final difference is in the attitude to Western women: they are ignored by the ulama, considered a positive model for many of the reformers, and excoriated by the Islamists, particularly in what is

seen as their derivative manifestation as 'Oriental Occidentals'. In assessing arguments about women today, one would do well to ask what implicit or explicit 'Other' various thinkers are caught up with and how such a target constrains and shapes what they do. The ambivalent charged image of 'the West' has been allowed to play too large a role, one might think, in living out Islam in the context of today's world, and nowhere more than in relation to women. Taking these three points together, the reformist movements thus vary in relation to what we might almost call class, gender, and race.

The variety of the movements reminds us that 'tradition' in the cultural contestations of this past century has been defined and redefined and made new. In the colonial context, Indians gave new importance to articulating cultural values: they emphasized ethnic or 'particular' domains defined by social and cultural life when many dimensions of public life were beyond their control. The shaping of the 'particular' or 'communal' proved to have profound implications not only for gender but for ethnicity and class. Changes interpreted both then and now as 'social' or 'religious'—among them the movements of social reform—were, we now know, to be fundamentally political, their legacy only too obvious today.

5

Nationalist Muslims in British India

The Case of Hakim Ajmal Khan

Islamic political rhetoric has had a wide variety of meanings in twentieth century South Asia. This variety has often been obscured by observers who assume Islamic political symbols to have a single set of meanings as well as by contemporary political figures who attribute to earlier figures their own particular views. In Pakistan, for example, all national heroes of the past are assumed to have used Islamic symbols exactly as does the current regime. At the height of General Ziaul Haq's rule, for example, prizes were offered for portraits depicting Muhammad 'Ali Jinnah, the urbane, westernized lawyer, in Islamic dress. Such reinterpretation can force resort to explanations of expedience to reconcile apparent inconsistencies, arguing, for example, that political figures spoke differently to different audiences. What else could one make of a Jinnah if he is clothed as a fundamentalist? But desire for legitimacy—here as everywhere—outweighs accurate history.

The purpose of this essay is to look at one label used to describe Muslim political figures and to try to understand its meaning in particular contexts. This term, 'Nationalist Muslim', is among those subject to misconstrual, in this case by assuming the 'Muslim'

element to be minimal and the 'Nationalist' element to be secularist and constitutionalist. Such an interpretation is understandable, given the desire of Western observers to link political behaviour to patterns familiar to them from their own cultures; it is also understandable that contemporary Indian politicians would want to find precedents for positions valued today. The term was first used in the 1920s to identify Muslim political figures who supported the Indian National Congress and eschewed communal organizations. The term in fact reflects alliance more than the content of the participants' programme. Recent research, for example, describes the support given by Maulana Azad—one of the best known Nationalist Muslims, Gandhi's ally, and India's first Education Minister—to Muslim terrorist movements in Calcutta. It clearly is inappropriate to equate the term 'nationalist' with liberal constitutionalism and secular abandonment of religious identities. Above all, it is necessary to see the extent to which the political action of both Muslim separatists and nationalists was stimulated by the interests of their religious community.

Hakim Ajmal Khan, the figure whose political views form the subject of this paper, is remembered as a 'nationalist' and a 'modernist'. His public life, extending over three decades, illumines three successive political strategies of the Muslim well-born in this period, drawing on different symbols of Muslim life and forging different alliances with non-Muslim groups. His political activities provide a contrast to a fourth strategy of Muslim political action, that of the religious leadership, which is also discussed below. These strategies together provide examples of the variety of implications carried by the term Muslim in differing political contexts. Throughout, the approach to politics was one, which was defined by religious community.

Hakim Ajmal Khan was among the most influential of Muslim political leaders in the first decades of this century. He has been little studied, in part, perhaps, because his activities are not easy to categorize. Yet in the judgement of one historian 'he was the nearest the Muslims had to Gandhi in terms of breadth of political appeal: he was highly regarded by government, respected in the Congress, and amongst Hindus generally, and was one of the few Muslims who could feel equally at home among ulama, Nawabs and [westernized] Aligarh graduates'. Humane, intensely committed, and articulate, he is an arresting figure in himself and a representative of important themes in recent Muslim history.

Ajmal Khan was the scion of a family of physicians who had long served the Mughal court and, after their decline, the courts of regional princes. Like his father before him, Ajmal Khan was an influential figure in the city of Delhi, respected for his aristocratic standing and behaviour and renowned for seemingly miraculous cures. The members of his family were men of refinement and cultivated tastes who participated in the cosmopolitan Persianate culture of the old capital. In the late nineteenth century they were drawn to the Aligarh Movement of Sir Sayyid Ahmad Khan in both its political and educational dimensions. Politically, the movement represented the attempt of the well-born of the Muslim community to create a special relationship with the British rulers on the basis of their history as previous rulers and of their shared monotheistic faith. Educationally, it represented the attempt to assimilate to European learning and styles of behaviour. It was welcomed by the British whose whole idiom of rule was cast in terms of religious community. Under the influence of the Aligarh movement, Hakim Ajmal Khan's elder brother, Hakim 'Abdu'l-Majid Khan, began the formal institutionalization of the indigenous medical teaching and the reform of its content that his brother was to bring to fruition. The revival of traditional medicine may seem alien to a movement often described as modernist, but in fact it fits logically into its overall concerns.

The Aligarh Style and the Revival of Medicine

The Aligarh definition of politics had two prongs. Most basically, it focused on the protection of the interests of the Muslim well-born including princes, courtiers, landlords, and professional men. Its causes were those of adequate representation, education to make representation possible, and protection of Urdu as official language for both cultural and political reasons. Secondly, aside from the protection of these interests, participants in the Aligarh movement celebrated Muslim culture as a focus of self-esteem. In part they recalled the historical glories of the Muslim past; in part, they cherished the hallmarks of elite Persianate urban culture as it had evolved in India. Urdu language and poetry and the customs of aristocratic gatherings were central in this latter focus; the revival of indigenous medicine belongs here too.

It is worth underlining one important characteristic of this programme. Neither the focus on interests nor the concern for Muslim culture is in a narrow sense 'religious' except in so far as they ensure the status and self-confidence of the old Muslim elite.

The cultural symbols to whose elaboration Ajmal Khan and his family made their contribution are what might be called cosmopolitan or Islamicate symbols, that is symbols derived from those aspects of civilization associated with Islam in which non-Muslims played significant roles. They are, quite literally, worldly symbols in that they are linked to historical romanticism and look to restoration of worldly glory. They contrast with the very different kind of religious symbols that became prominent later on.

Hakim Ajmal Khan's most original contribution was in almost single-handedly making traditional Muslim medicine, *yunani tibb*, part of the repertoire of Muslim (and later nationalist) political symbols. Like the poet Hali and others associated with Aligarh, Ajmal Khan was convinced of the greatness of the Muslim cultural past, of the vicissitudes in the fortunes of all cultures, and of the possibility of restoration of Muslim greatness in the present. He assimilated, as did many colonialized intellectuals, the Orientalist dichotomy of East and West in assessing the cultural and political context of his times. In 1891 he expressed this view in the introduction he had prepared to a catalogue of Arabic and Persian manuscripts:

> Although the sun of Eastern arts and sciences kept rising in its own time, and many nations drew benefits from its light, now that sun has declined and the age, as is its habit, has given birth to a new sun that fulfils the needs of the people of the age. . . . The result of this reversal, which previous nations have already endured, will happen to us: we will see our former greatness and glory in the land of oblivion if we do not take thought to preserve it.

Ajmal Khan's first efforts were devoted to reversing the tide of cultural decline in medicine; his political activities were an inevitable outgrowth of them.

The strategies for reform of medicine were like those employed in the reform of other branches of indigenous knowledge, particularly religious education. There was the same attempt to gain institutional equivalence to the British schools by creating formal schools with paid staff and fixed requirements to replace the personalistic informal settings of family homes and apprenticeship. There was also the same shift to the use of the vernacular language of Urdu in order to make knowledge more widely available. In 1897, for example, Ajmal Khan wrote a booklet on plague, prefaced by a defence of his writing in the *mulki zaban*

(territorial language) instead of in Arabic; he expected, he said, that this use of Urdu would be regarded as a *bid'a* (the terminology used in the religious law to define a reprehensible innovation). In terms of content, the medical reformers made the same attempt as the religious scholars to find systematic, generalizable principles, in this case scientific principles that were analogous to the systems available in the West. These were to replace popular practices that were seen as outside the scientific system. In some ways the technique for creating this intellectual equivalence was the same in all subjects, namely the return to texts of the literate culture at the expense of customary or local practice. Thus the adversaries of the reformers were practitioners of unsystematic folk medicine, often midwives and other women and poorly trained *yunani* practitioners. As in the case of religious education, this is scripturalist reform, but here reform by the cosmopolitan, not the shari'a-minded. An important difference from other areas of reform, however, was that at no point did the reformers attempt to identify Indic or Hindu elements in medicine as distinct from a fundamentally Islamic core.

The modern revival of Islamic medicine was thus more communal, even secular, than religious in the sense that it was linked not to Islamic practice but to pride in Muslim culture and to Muslim social identity. The medical system is inherently plural in its origin and continuing openness. It is called *yunani tibb*, Greek medicine, and came into Muslim culture in the period of 'Abbasid rule in Baghdad when a common culture was being forged out of the disparate elements embraced in a great empire. Islamic medicine is the medicine of Galen and Hippocrates translated into Arabic, enriched even in its early centuries by contact with Indian specialists in Ayurveda who shared the humoral theories common to the whole of the old world. The period of the Mughal empire saw a second important occasion of interaction between medical traditions when both pharmacopoeia and therapeutics were modified on both sides. In principle such adaptations could not be seen as accretions because the theory of Islamic medicine is holistic and demands adjustments in accordance with the local context. In the same way Ajmal Khan argued that there were new diseases in the modern world and that for them one ought to learn from the West. Although in some cases he recommended learning techniques from Western medicine, notably in surgery, he insisted that this was necessary only because of neglect of *yunani's* own texts. Other techniques, like the uses of

hot and cold baths he observed in Germany, fit well into *yunani* theory. Influence from Western medicine was thus limited and did not extend to basic principles. *Yunanl* was seen as a scientific system of its own, deduced from a coherent set of principles, confirmed by empirical evidence, and able—in theory—to encounter the Western system as an equal.

Central to the movement for medical reform was what one might call the biomedical paradigm of illness argued on the basis of empiricism and rational therapeutics in contrast to a metaphysical, psychological, or social paradigm whose adepts would be less technicians than holy men. Thus, the famous blind hakim of Nizamu'd-Din in Delhi today scoffs at those who talk of possession by demons: 'Some people's imagination becomes overheated and operates beyond all rational bounds. What has happened in these cases is that certain nerves in their brains have become stretched, and I can generally treat these patients successfully with medicines.' He is in the tradition of Ajmal Khan in being personally pious but scientific. Modern Indians and westerners who dismiss all indigenous systems as 'faith healing' thus miss an important distinction. As science, medicine became a political symbol of Muslim cultural pride and, linked with Ayurvedic medicine and its revival, a national symbol as well. This has been called the 'resecularization' of medicine to suggest that the system was originally developed as a scientific system; it was later made part of religious systems; and now in the recent period it has been re-formulated as scientific.

Some continued to understand *yunani* medicine in an Islamic religious framework, and the reformist ulama in particular took part in its revival. Practitioners ran the gamut from those who focused primarily on scientific principles to those who stressed divine intervention. At Deoband, the centre of scripturalist religious reform, many of the ulama were also hakims. There was some opposition to including *tibb* in the curriculum, in part because it was a distraction from the more important studies of the fundamental texts, in part because some felt the pious ought only trust in God and see illness as a visitation offering an opportunity for spiritual growth. But *tibb* was ultimately included in the curriculum and many of the ulama, always recognizing God as the ultimate healer, disseminated scientific medicine. Hakim Mansur Ahmad Khan, a Deoband graduate and chief physician at the court of Hyderabad early in this century, wrote a compendium of proofs of the existence of God, many of them

drawn from the beneficial principles enshrined in scientific Greek medicine. The most important Deobandi text for women included a basic primer of *tibb* as part of the attempt to include women in the general movement for reform. But as far as the overall revival of *tibb* went and the creation of separate schools for its instruction, the emphasis was wholly secular.

In the revival of medicine, both institutional changes in teaching and intellectual changes in content were inextricably linked to the political context in which they were made. The professionalization of medicine thrust its authors into a public arena, as issues taken up, for example, by the reformist ulama did not. The scholars could quietly create formally organized seminaries, publish and write on religious responsibilities in Urdu, and generally instruct Muslims in individual responsibility for the fulfilment of the religious law. Public debates aside, they could pursue their interests without encounters with the government. Hakims by contrast needed official recognition, both for psychological reasons and for their very survival. This was particularly true as Western and Western-trained doctors (in India called allopaths), moved to make the same claims to a monopoly of legitimacy in India as had their counterparts in Europe. At mid-nineteenth century, the British had been inclined to use hakims for programmes of medical relief and to establish courses for their training, but that had given way under pressure just a few decades later. The major assault, as it was seen, on the indigenous systems came with the attempt by British and Indian allopathic physicians to secure registration acts in each province so that no doctor of indigenous medicine could be legally recognized to give testimony in legal disputes, to certify illness for workers, or to perform any other legally required function. Between 1912 and 1916 medical registration acts were passed in Madras, Bombay, Bengal, the United Provinces, Punjab, Burma, Bihar and Orissa. The reformers, moreover, fought to claim a monopoly of legitimacy for those indigenous practitioners who were educated in their new institutions, and periodically called on government to help them, for example, in hiring only their graduates for government positions. Given such concerns, political organization and activity were inevitable. *Yunani* medicine, both scientific and Muslim, could not easily be dismissed.

Even before the decade of intensive activity stimulated by the attempts to pass registration acts, Ajmal Khan had sought a constituency for his programme of medical reform. In the initial period of his public activities, he directed his attention primarily

to the princely elite, the theoretically autonomous rulers of one-third of the subcontinent. They were in fact the creatures of the British who nurtured them in return for loyalty and whatever sanction for imperial rule they could provide. In this situation there were many among the princes who chose to use their resources to patronize indigenous culture as a source of their own and their people's self-esteem. The flourishing of indigenous art, music, and learning in general in the colonial period derives in part from the structure of British rule that supported the princes and others of the old elites. Of the groups whom Ajmal Khan found to support his schemes, the princes more than any other group valued medicine intrinsically as well as for its symbolic value. The Muslim nawab of Rampur cherished Ajmal Khan personally and supported the medical and political institutions he espoused. The ruler of Bhopal had a state-wide organization of medical care staffed by *yunani*-trained doctors. The rulers of the princely states almost single-handedly provided the capital for the college that Ajmal Khan founded for indigenous medicine following the First World War.

From the very beginning of his career, Ajmal Khan also attempted to gain the respect of the British for his endeavours. In this his concerns were like those of the Aligarh modernists and other apologists who required validation of their efforts by the British. In his newspaper published in the 1880s and 1890s, or at meetings held at the Delhi town hall with British officials present, he presented himself to officials as someone who shared their values and was open to change. In a speech in 1889, for example, he implied—without ever saying—that Western medicine was superior by stressing the need for training indigenous practitioners when Western-trained doctors were so few. He ventured that indigenous medicine was more suited to the local temperament but at the same time acknowledged the superiority of Western doctors in a limited range of anatomical and surgical skills, pointing out that these were now taught in his school. In this way he conveyed an impression of openness and rationality. Later he was to add a note of threat by alluding to the possibility of Muslim disaffection if British authorities denied them respect.

The British were ambivalent about Ajmal Khan's efforts on behalf of indigenous medicine. What support they gave was politically inspired, given to secure the loyalty of a person understood to be at the centre of an influential network based on family and education. British officials graced almost every

important occasion associated with the reforms his family initiated: the opening of their school in 1889, the opening of the women's branch of the school in 1909, the laying of the cornerstone of the college in 1916, and the opening of the research institute in 1930. Given his reservations about indigenous medicine, however, it was with great reluctance that the viceroy, Lord Hardinge, laid the foundation stone of the college in 1916; it was only his personal respect of Ajmal Khan and a promise that instruction in some aspects of Western medicine would be included that persuaded him to attend. Ajmal Khan's hope of serious official respect, even preference, for the *yunani* system was never even a possibility. Respect for him and for his associates was more readily granted on the basis of their political influence.

Ajmal Khan and the Muslim League Style of Politics

Shortly after the turn of the century, Muslims in north India moved from the darbar model of Sayyid Ahmad—seeking roles as trusted and loyal advisors to their ruler patrons—to a more assertive political position. Disappointments in the special relationship, above all over the issue of giving Hindi equal place with Urdu as the official language, coupled with the prospect of constitutional reform, stimulated efforts to organize that culminated in the first delegation of the Muslim League to the viceroy in 1906. Ajmal Khan was part of that delegation to press Muslim interests, and he continued active in the League until the non-cooperation movement following the war. The League became the chief actor in the arena created for political activity by the Indian Councils Act of 1909 that provided, however narrowly, for some popular influence on the workings of government. It made the relationship to the British more adversarial, but the basic programme of the Muslim elite remained the same. They continued to define the community as that of the landed and professional elites and their programme as one of securing the political interests and the cultural respect owed that elite. Ajmal Khan's own relation to individual Englishmen and his political position convey the ambivalence and contradictions of seeking a special relationship with the rulers.

Ajmal Khan's relation to the British was predicated on a quest for respect, for *'izzat* and *wiqar*, a problematic goal in a relationship between colonial ruler and colonized subject. He sought this respect for himself, for his family, and—as in the registration act controversy—for his art. He accepted the family title of *hazīqu'l-*

mulk ('the skilled one of the kingdom') from the British in 1908 and he was honoured by being consulted as a respected source of native opinion. Hailey, the chief commissioner, wrote to the viceroy in 1913: 'He is a man whose opinion . . . is of great value as he comes across all classes of men and has a very sound judgement in all such matters.' When Ajmal Khan found individual Englishmen who accorded him respect, he was capable of forming with them the intense and passionate friendship cherished by his culture, friendships which were typically reserved for fellow Muslims. Among his English friends were C. F. Andrews, the Anglican missionary who identified himself personally with Tagore and Gandhi and politically with the interests of nationalists and of Indians overseas. Andrews spoke of 'an ever deepening friendship' with Ajmal Khan and revered him for his integrity and dedication. Ajmal Khan deeply respected the viceroy, Lord Hardinge (1910-16), and valued his relationship with him and with his wife beyond any question of mere expediency. Theodore Morison, on the staff at Aligarh, facilitated Ajmal Khan's trip to Europe. But even in these friendships and even when most single-mindedly asserting his loyalty to the British crown and his conviction of British beneficence, Ajmal Khan, like all Indians, knew himself at perpetual risk of insult in any encounter. His friend C.F. Andrews sensed an important element in his attitude to the rulers. Andrews often saw the hakim at parties of the deputy commissioner that both were expected to attend. 'It was easy to find the Hakim Sahib on such occasions, for he would sit apart and would do nothing to court favour or to gain recognition'. The whole situation, Andrews explained, must have irked a person who had once been honoured by the Mughals.

Ajmal Khan, too, had his share of railroad experiences, the single most telling locus of class encounters. To give only one example, faithfully recalled by a disciple, he once 'during the period when he was particularly close to the rulers' entered a first-class carriage and spread out his bedding. An Englishman came in and ordered him to move to the other side of the compartment. Ajmal Khan's servant pointed out to the Englishman who this was, whereupon the Englishman apologized, withdrew his order, and gave an elaborate explanation of why he had acted as he had. Ajmal Khan refused to accept his apology or accommodate his wishes on the grounds that the Englishman had acted as he had out of racism. Later, when political events had begun to alienate Ajmal Khan from loyalty to the British, a second personal experience

effectively moved him to break with his previous stance. This was the internment and accusation of subversion laid against his nephew, Hakim Muhammad Ahmad Khan, in 1918 when he had travelled to the frontier. 'It is against my expectations of the government', Ajmal Khan wired to the Chief Commissioner of Delhi, '[and] I need hardly say that the order not only casts a slur on Mohamed Khan but also on all the members of the family.' Once again this was a matter of *'izzat* and *wiqar*. One recalls Sayyid Ahmad Khan's bitterness in his later years when the living embodiment of his belief in cultural assimilation, his Cambridge-returned son, was still only treated as 'a native'.

Through the First World War, however, Ajmal Khan and people like him adhered to the policy of loyalty as the best guarantee of their interests. In 1910 Ajmal Khan delivered a welcome address to the third annual session of the Muslim League. The speech is virtually a textbook example of the salient points of this period of Muslim politics. Ajmal Khan denounced terrorism, recalled Sayyid Ahmad Khan's aloofness from the Indian National Congress, and reiterated the special relationship possible between Muslims and their rulers—and the motive for fostering it:

> Loyalty to his rulers is engrained in the Muslim's nature and is inculcated by his religion. The Quran expressly lays down that the Musalman and the Christian are nearer each other than the followers of any other two faiths. We also realize that the presence of the British in India is the best guarantee for the preservation of peace and order in the country and the equitable protection of Muslim interests.

He also lauded the political relation of the British to their subjects: 'British statesmanship, ever characterized by generosity and beneficence, is exerting itself to lead the peoples of this Eastern land, step by step, along the path of political progress on Western lines.' These attitudes would not outlive the decade.

More long-lived was Ajmal Khan's conviction that political activity had to be understood in terms of community membership and mediated through communal organization. At this point he emphasized the theme of Muslim backwardness: 'Our share in the public service of the land is yet absolutely inadequate. In education we are still very backward. We have only lately entered political life.' He reviewed the particular arenas in which Muslim interests needed to be safeguarded and pointed to the importance of representation in universities, on municipal and district boards,

on legislative councils, and on the viceroy's council, citing the principle 'of having a Musalman . . . to represent the Muslim point of view'. He concurred with the League policy of favouring separate electorates (in which each community elected its own representatives) rather than general electorates. On all this, he would later modify his position, either in principle or in emphasis, but most enduring was his insistence on the legitimacy of separate organizations to press for communal interests:

> Those, however, who take exception to the existence of bodies established for safeguarding communal interests, forget that in advancing the cause of one section of the population you advance, indirectly the cause of the whole, and that a network of Hindu associations and *sabhas* is already striving for the promotion of sectional interests. So long as such sectional interests, whether of the Hindus or the Mohammedans, do not jeopardize the larger interests of the country or community, we should welcome them. . . .

In all this, Ajmal Khan was one with the early leadership of the League.

Unlike them, however, his commitment to the preservation and development of indigenous medicine had required him to ally with non-Muslims for political action in their area of common interest. These were defenders of the other major indigenous system, the Ayurvedic. In terms of reform of content of *yunani*, there is no evidence that Ajmal Khan had ever hoped for collaboration. He believed that both systems, the Ayurvedic and the *yunani*, had entered a period of decline: indeed that of the former was far the greater and he ventured that it had seen no development for eighteen hundred years whereas *tibb* had only stagnated for four to five hundred! For reform of content, he turned to Western medicine to learn some techniques and some approaches to new illnesses, but primarily to recover areas like surgery and an underlying belief in progress that had been forgotten. It was to Western medicine that Ajmal Khan wanted a reformed *tibb* to answer. Only the threat of the Registration Acts forced cooperation with the other indigenous system; and in 1910 Ajmal Khan organized the All-India Ayurvedic and Tibbia Conference. Thereafter, it met annually and virtually all petitions and representations to the government were couched in terms of the two traditions. When Ajmal Khan moved on to raise funds and plan for the foundation of a college, it was to be a college that

taught both *yunani* and Ayurvedic. When Ajmal Khan moved away from his position of loyalism during the war, this experience of communal collaboration was influential in shaping his political stance.

Ajmal Khan and Religious Reform

Ajmal Khan, in his espousal of the interests of the Muslim well-born and his commitment to Muslim cultural symbols, stood apart from and indeed opposed an alternative definition of Muslim community and politics held by some of his Muslim contemporaries. The reformist ulama had, particularly after the Mutiny of 1857 and the evident display of British superiority, turned inward in their teachings and focused on creating a community defined not by Muslim political structure and symbols, but by individual adherence to Islamic norms of conduct and belief. Their definition of community extended beyond elites to ordinary Muslims, men and women, of every background. To train religious scholars, they had organized new schools with formal, bureaucratic characteristics that had been learned from British examples. They created a vernacular religious literature meant for ordinary Muslims. They undertook public preaching and debates. The content of their teaching was primarily personal legal obligations and the techniques of personal spiritual development. Underlying all their efforts was a belief that Muslims had strayed in their understanding of Islam and in their commitment to religious obedience. It was necessary to return to the basic texts and to eliminate from current practice all false accretions and deviations that the passage of time and the local environment had produced. They offered a perfunctory loyalty to the British (while regarding them as unclean and their rule as illegitimate) until after the World War.

There were two main groups of reformers in this period in north India shared similar institutional and methodological orientations. They differed over their attitude to the historic schools of law: the Deobandis continued to follow the Hanafi school which was widespread among Sunni Muslims (and hence they were known as *muqallid* or conformers); and the Ahl-i Hadith discounted the historic schools in favour of direct use of Qur'an and hadith (and hence they were known as *ghair-muqallid*). Disputes between these two groups were particularly intense. Both were, moreover, challenged and were challenged by those who objected to any change at all, a group known as the Barelwis.

In the course of their debates, the Barelwis became ever more like their opponents in organization and in a concern with codification of legal norms. The reformers chose as their particular targets, as had Sunni Muslims from the time of Ibn Taymayya, the accretions they attributed to false Sufism and to the Shi'a, both of whom they felt compromised the unique position of God by the powers they ascribed to saints and imams. They rejected what they understood to represent a more dependent religion in which the believer looked to intermediaries for mediation instead of to his own responsibility for fulfilling the Law and developing his own personal qualities. Reform religion was well suited to a period of alien rule since the locus of authority was not the state; and it was also suited to a period of greater geographic mobility since the believer was no longer tied to local customary practices on fixed occasions.

From his earliest public statements, Ajmal Khan deplored the reformist orientation of the ulama. Indeed there was a family tradition of opposition to reform since Ajmal Khan's grandfather, Hakim Muhammad Sadiq 'Ali'had written the *Taqwiyatu'l-aqa'id* as a refutation of the first great reformist tract of the nineteenth century, Maulana Isma'il Shahid's *Taqwiyatu'l-iman*. Above all else, Ajmal Khan abhorred the divisiveness and public controversy that seemed intrinsic to the efforts at reform. He used the columns of the family newspaper to denounce the rivalries of the *muqallid* and *ghair-muqallid* in Delhi in the 1890s. At a meeting in 1909 he declared that there had been more mutual denunciations of infidelity *(fatawa-yi takftr)* in India since 1857 than there had been previously in the whole history of Islam. Moreover, he regarded the apolitical efforts of the reformers as inconsequential. For him community long continued to be defined as the community of the well-born landed and professional classes and the goal of political action to be a place for them and their culture in the courts and councils of the rulers.

Ajmal Khan's whole style of behaviour and belief was unlike that of the ulama and was indeed characteristic of many of those who were to go on to play a role in nationalist politics. His was an aristocratic style. He was a patron and a host, invariably in the company of poets and literati, landlords and government servants; one anecdote has him in the company of two women singers. Under the nom de plume of Shaida Dihlawi he wrote his own Urdu and Persian poems. As he grew older his sporting activities shifted from the traditional *akhara* (wrestling pit) to billiards and shikar. During most of his adult life he wore the sherwani and fez

of Aligarh, the former an adaptation of the Western coat and the latter a symbol of admiration for Ottoman social change; both garments were regarded as unacceptable by most of the ulaṃa.

Ajmal Khan's own religious style was not that of the reformist ulama. Although a Sunni, in direct contrast to the reformers he cherished precisely the two orientations they opposed, an inclination toward Shi'i beliefs and reverence for the shrine-based Sufis. After his first heart attack in 1905, he chose to make his trip abroad for recuperation to the Shi'i shrines of Iraq. There he set out from Kufa to the shrine of Hazarat 'Ali and finding himself alone at one point continued on foot. At the shrine, he later wrote, he experienced an emotion of deep happiness that was to last his entire life. The Shi'i nawab of Rampur, his patron, said after Ajmal Khan's death that had he had a Sufi master, it would have been him.

Ajmal Khan is said to have loved to be in the company of Sufis, and he and other members of his family were buried at the shrine of the seventeenth century saint, Hazarat Khwaja Sayyid Hasan Rasul Numa. Ajmal Khan probably had initiation at the hand of Miyan Munawwar 'Ali Shah of the Chishti Nizami order whom he admired—in a conventional form of praise for holy men—for being learned without having studied. Through Nawab Mushtaq Hussain, Wiqaru'l-Mulk, a leading administrator at Aligarh and his close associate in Muslim League politics, he was put in touch with a second influential *pir*, Maulana Sayyid Sikandar Shah. He is known to have held him to be a great 'source of peace and comfort'; and is alleged to have been able to practise the Sufi discipline of holding the picture of the master in his memory, remarkable in this case because the master and disciple had never met. As a mark of respect, Ajmal Khan taught *tibb* personally to Sikandar Shah's chief disciple. Ajmal Khan contrasted the Sufis with the ulama, arguing that they did not raise disorder *(fasad)*, but 'with one glance could bring a message of healing to the ills of the heart.'

Unlike the reformist ulama who made ritual practice central to their lives, Ajmal Khan is said to have been careless of keeping the prayers and the fast. Yet he was personally pious. His peshkar (deputy) of many years recalled Ajmal Khan's dismissal of his hesitation to begin a *yunani* education because of lack of resources. 'A student must begin his education by trusting in God. The Lord is the Provider.' Moreover, as a boy and young man he had

himself pursued the classical learning tradition seriously and was teased for being a 'mulla' in his youth. Opposition to the reformist ulama did not mean that one was worldly and irreligious, but rather, perhaps, that one was religious in a different way.

Yet Ajmal Khan, for all his marked differences with the ulama, shared certain of their orientations that were increasingly common among all shades of Muslim opinion, whether reformist or not. Like the reformers, he disapproved of excessive spending on rituals and life cycle ceremonies. Like them, too, he urged study of the fundamental scriptural sources of the faith, even for those associated with the shrines. In 1916 he presided over the annual meeting of the Madrasa Mu'iniyya 'Usmaniyya at the great Chishti shrine of Shaikh Mu'inu'd-Din in Ajmer. The school had been founded shortly before at the instigation of the head of religious affairs for the princely state of Hyderabad who continued as its patron. Meant to educate the sons of the descendants of the shaikh who controlled the shrine, at its height it had some 150-200 students and twenty-five teachers. On the occasion of his visit, Ajmal Khan declared that this was the first school to teach Sufism properly. He diffidently urged that each branch of knowledge be taught by a specialist and that those more learned than he revise the curriculum in such a way that the books of the great thinkers of the past be once more studied. The school was also visited during the Khilafat movement by such figures as the Ali Brothers and Maulana 'Abdu'l-Bari, a relationship suggestive of the political utility of an open attitude toward the influential shrines, parallel in fact to the utility of an open attitude to the often influential Shi'a.

Ajmal Khan's opposition to the reformers coupled with his desire for unity and learning was reflected in his support of two religious institutions that were founded in these years. The first was the Nadwatu'l-'Ulama in Lucknow, an institution meant to unite the ulama of all schools on the basis of serious scholarship and to offer them a political platform. Ajmal Khan was a member of their Board of Management for many years, presided over their annual meeting in 1909, and was part of a committee to reconcile conflicts at the school in 1914. He was sympathetic to the school's emphasis on Arabic and to its inclusion of literature and history in its teaching. He also supported the Nazaratu'l-Ma'arif founded by a graduate of Deoband, Maulana 'Ubaidullah Sindhi, in the hopes of uniting those with traditional learning and those with Western learning in an institution that focused on study of the Qur'an.

Again like the reformist ulama, he placed enormous value on a disciplined and controlled life. He exemplified 'control of the lower self', as it was called; and the testimonials about him collected from his associates after his death are largely couched in the technical terminology, mostly from the Sufi tradition, that is used to discuss a disciplined and well-formed life characterized by complete self-control, unselfishness, and truthfulness. His deputy identified his most singular characteristic quality as *quwwat-i taskhir*, the power of subduing, and said it resulted in each person's feeling uniquely loved by him. In every educational institution with which he was involved, Ajmal Khan insisted on the necessity of teachers who personally embodied the lessons they attempted to teach. Ajmal Khan thus shared the commitment of the reformers to certain personal values, to abandonment of elaborate ceremonials, and to education in the Islamic classics. But he stood decisively apart from their passionate concern with establishing correct belief and practice among all Muslims, defined in part by opposition to shrines and Shi'is, as well as from their attempt to operate outside the political structure.

Nationalist Muslims: Communal Symbols and Non-Communal Cooperation

In the decade that began in 1912, both Ajmal Khan and a segment of the reformist ulama were to move to a political paradigm that represented neither the interest-oriented community-focused programme associated with Aligarh nor the politically aloof programme that defined community by individual adherence to religious norms associated with the reformist ulama. In that period, Muslim political leaders felt betrayed by the British by a series of policies that were carried out both inside and outside India. Within India there was anger over the revocation of the partition of Bengal that had given the Muslim majority of that province the eastern section under its own control. There was acute disappointment over the government's unwillingness to encourage the development of Aligarh as a Muslim university. There was concern that the constitutional reforms would not offer enough to Muslims and a feeling that Muslims had to organize to bring continuous political pressure. Outside India there seemed to be unending pressure on the Muslim world and in particular an undermining of the Ottomans in their central and symbolically significant area of authority. The Balkan Wars particularly focused Muslim opinion on the Middle East and the larger Muslim world; and the

subsequent years were to see Muslim causes outside India as the central focus of Indian Muslim political organization and mobilization. Many of these discontents were focused on the Kanpur Mosque incident of 1913, the first occasion when influential political figures and religious leaders from outside took up an essentially local issue. By 1913 the Muslim League was calling for self-government. In the same year, Ajmal Khan emerged as a major figure in the organization of a medical delegation to the Balkans.

In these years the rhetoric of Muslim political language moved from an emphasis on the preservation of elite interests and cosmopolitan cultural symbols to more emotive, populist, public symbols of Muslim corporate identity. Politicians did not take up the programme of the ulama directed toward individual education and moral reform; the symbols were not religious in that sense. Rather they focused on Muslims as a special community, the best community, a community to be reckoned with seriously. This was a community to be defended by all Muslims as a sacred duty. At the same time as developing this religious rhetoric, Muslim political leaders moved to cooperate with non-Muslims in their common cause of opposition to the British. The landmark of this cooperation was the Lucknow Pact of the Muslim League and the Indian National Congress in 1916 in which a common platform of political demands was obtained. Sections of the ulama, drawn by the religious issues and by the opportunity to oppose the British, organized as a political group to cooperate with the others. Leadership increasingly passed to Gandhi who took up the cause of preservation of the Ottoman Khilafat, and in 1921 both Hindus and Muslims followed him into non-cooperation. Ajmal Khan was centrally involved in the development of these organizations and programmes. It was Ajmal Khan (and Dr Ansari) who first invited religious leaders to the Muslim League; and Ajmal Khan was perhaps the Muslim closest to Gandhi.

At the same time he continued to be deeply involved in his defence of the indigenous medical system and to seek the cooperation of hakims and *vaids* as essential to its success. The All India Unani and Ayurvedic Tibbia Conference continued to hold annual meetings and to lobby for protection against discriminatory laws. In 1916 Ajmal Khan succeeded in having the issue of the protection of the indigenous systems raised in the legislative council and a resolution was successfully passed that attempts would be

made to place 'the ancient and indigenous systems of medicine on a scientific basis.' At a meeting with Madan Mohan Malaviya present, Ajmal Khan argued the necessity of founding tibbia colleges throughout the country, all under the control of a central tibbia university. Writing in the annual report of the Tibbia College in 1920, Ajmal Khan insisted on the identity between indigenous medicine and self-government, using the swadeshi argument (although not the term) associated with Gandhi: 'If we want to take the administration of government into our own hands, we must right all national things, including the indigenous method of healing. Our real progress depends on these things. We fail in serving our country if we are dependent on outside things.' National leaders regularly presided over the annual functions of the conference and the college. In 1921, Gandhi himself dedicated the newly completed buildings of the college. With the passing of the Montagu-Chelmsford constitutional reforms of 1919, health was made a provincial subject under the control of elected officials. From that time on, fear of discrimination largely ended and the policy of governments, continuing to the present, has been, in varying degrees, the patronage of the indigenous systems.

For Ajmal Khan the support of non-Muslim political leaders was essential both to provide a united front against government discrimination or neglect and, as the nationalist movement grew, to gain the support of those who were increasingly powerful. The support that was given to medicine by these leaders was in part based on genuine commitment to the value of the old systems but in part it was based on political motivation, just as British support had been. The most dramatic example of this ambivalence was in Gandhi's address at the laying of the foundation stone of the Tibbia College in 1921. At the height of the non-cooperation movement with all the hopes and anxieties that the attempt at Hindu-Muslim cooperation entailed, Hakim Ajmal Khan and his college represented a symbol of genuine open-mindedness and cooperation that Gandhi felt had to be recognized. On the other hand, he opposed all systems of medicine and regarded, he frankly said, all hospitals as a sign of failure. *Tibb* in its current form, he continued, was nothing more than black magic and one ought in any case to concentrate on nourishing the soul rather than on wrongly ministering to the body. His rather astonishing remarks aside, it was nonetheless significant that Gandhi had chosen—and been chosen—to preside over this occasion since only a few

months earlier it had been expected that the viceroy would play this role. On the left side of the main entrance to the college is the stone laid by the viceroy in 1916, on the right hand side is the stone commemorating the inauguration of the building by Gandhi—a dramatic picture of the rapidity with which Muslim political orientations had changed in those years.

Three aspects of Muslim cosmopolitan culture became associated with nationalist symbols in these years and continue so to the present; these are Sufism, music, and medicine, all regarded as part of a shared culture that can be valued by both Muslims and non-Muslims. In Delhi in the 1980s, for example, the Muslims most likely to appear on public political and cultural platforms were the city's leading hakim and a distinguished descendant of the family of the Sufi, Hazrat Nizamu'd-Din. Thus medicine, early in Ajmal Khan's life, was a symbol of the cultural pride of the Muslim cosmopolitan elite; more enduringly it became a symbol of cultural integration.

Ajmal Khan's complete commitment to Hindu-Muslim cooperation was shaped by this long and deep experience of the value of cooperation in the field of medicine. This is not to say that others without such experience were not also committed, only that in his case the experience in medicine, and indeed his whole predisposition toward the more cosmopolitan aspects of his culture, was of formative importance. Although active in the Muslim League from the beginning, he, unlike many in the tradition of Sayyid Ahmad Khan, had not seen the Indian National Congress as necessarily antagonistic to Muslim interests. He, moreover, was convinced that one could further Muslim interests and at the same time move increasingly toward a common national culture; few of the Muslim leaders at this period shared his commitment to this latter goal.

For many of the Muslims, cooperation with non-Muslims was merely expedient as, indeed, was the acceptance of Gandhi's policies; they joined him out of desire to present a common platform of opposition to the rulers. This was largely true of the charismatic journalist and politician Muhammad 'Ali. The ulama, moreover, cherished a plan for a wholly autonomous social and political life, linked to non-Muslims in the loosest of federations once Independence was attained. Although in 1919 Ajmal Khan had been instrumental in organizing the association of the ulama, the Jami'atu'l-ulama-yi Hind, joining with the leading Deobandi of

Delhi, Mufti Kifayatu'llah, he strongly opposed the Jami'at scheme to create a separate system of law courts under an organization of the ulama as the beginning of what might be called the 'mental partition of India' that they envisaged. Ajmal Khan believed fully in communal cooperation and at the same time shared in the increasing focus on emotive, public, religious symbols of Muslim corporate identity. In significant ways these symbols derived more from the cosmopolitan complex of values cherished by those associated, however loosely, with Aligarh, than from the complex of symbols articulated by the reformist ulama. It had been those who wrote in English or had interacted with the British and their views of Muslim culture who created the romantic and apologetic writings of the late nineteenth and earlier twentieth centuries—writers like Ameer Ali, Chiragh Ali, Shibli No'mani, the novelist Sharar and the poet Hali. They had responded to Orientalist criticisms of their religion and culture and had directed attention to the larger historic and geographic world of Islam. Among the ulama, it was Nadwa, most the product of those interacting with the British, that focused most on the larger Muslim world. As Muslim countries seemed increasingly threatened, journalists and polemicists like Muhammad 'Ali and Maulana Azad created an ideology of Indian Muslim identity with the fate of Muslims elsewhere. The reformist ulama to be sure were also conscious of Muslim interests outside India; indeed, they had been involved in collecting money on such occasions as the Russo-Turkish war of 1878. As others took the lead, some among them entered active political life for the first time, most notably some leading figures from Deoband and from Farangi Mahall who thus, it has recently been shown, were able simultaneously to enhance their own positions within their institutions. Once involved, the ulama were a determining force in the shape of the national movement, pushing for extreme action and often succeeding.

Ajmal Khan's own views in these years are evident in many of the speeches he delivered at the numerous organizations of which he was a part. In 1918, for example, he was part of a group of Muslim barristers, wakils, and traders, along with his beloved associate, Dr Ansari, the publisher Maulana 'Abdu'l-Ahad, and the imam of the Jami Masjid, in attempting to establish an Islamiyya College in Delhi. In his statement he talked much as he had in earlier years of the decline of Muslim culture, blaming the sorry state of education for the under-representation of Muslims in what he called the *sharif* professions: barristers, doctors, engineers,

wakils, and teachers. But he now broadened his earlier focus and looked also at the low numbers of Muslims in industry, crafts, and trade, and lamented the condition of ordinary education. He spoke overall of the decline of Muslim dignity and honour *(qauml wiqar aur 'izzat)*, and of the decline in Delhi especially. He recalled the great scholars and Sufis of the city 'whose messianic breath breathed new souls into the dead body of the nation.' 'Now look,' he added, 'at the autumn of the city whose spring was this.' He continued to enjoin Muslims to act on the basis of their religious obligations and drew heavily on words charged with meaning in Muslim religious life.

> Our children who were once educated in madrasas and households now play in the streets. Who can go into any Muslim neighbourhood and return dry-eyed? Our children are not responsible for this. God has given us the power of discrimination *[tamiz]* and we are responsible for their education, nurture, and Islamic culture and deportment. What answer will we give in the afterlife *[akhirat]*? Shall we answer that we took loans for ceremonies for them, ceremonies that were against the *shari'a*, and left them free in the streets to add to their hearts and minds the accretions that darken the skirt of Islam and humanity? . .. They are the victims of their poverty and our forgetfulness *[ghaflat]*. Every delay in creating a school increases the sin *[gunah]* which is on the neck of every Muslim of Delhi. It is the duty *[farz]* of every Muslim of Delhi to lay the foundation of an Islamic college. And when a Muslim undertakes a work, he does it with the enthusiasm of Islam and the emotions of the faith *[islami josh aur imani jazbat]*. . . . We must put our trust in that God whose kind glance falls on every lowly servant and rescues every faltering work, then place our hope in our Islamic brothers, confident that all will unite in putting this on their weak shoulders with dependence *[tawakkul]* on God.

The speech reflects both the more inclusive corporate identity and the use of religious symbols characteristic of Muslim political life in this period.

These themes reappear in speech after speech. As chairman of the Khilafat Committee in 1921, Ajmal Khan called on Muslims to sacrifice, for example in such matters as using homespun. 'You must say *labbaik* ["I am present," as one says most dramatically at the Meccan pilgrimage] to a voice inviting you to protect Islam

and stop injustice . . . . If we are not ready for this, we have no right to mouth Islamic injunctions or to hope for God's mercy.' In appealing for contributions to the Angora Fund he said, 'If you fall short in any way in helping... now, consider this to be an unforgivable sin . . . . Prove that in your veins, by the grace and generosity of God, even now Islamic blood flows. This is a sacred duty [*muqaddas farz*].' Emboldened by the knowledge that they were part of a larger world and not merely a minority in a single country, political leaders asserted a picture of Islam as a special community, unique by virtue of its revelation. Instead of distinguishing certain Muslims as the well-born—*sharif*—Ajmal Khan would enjoin all Muslims to certain actions because as a whole they were well-born—a *sharif qaum*.

In his speech as president of the Muslim League at Amritsar in 1919, Ajmal Khan, speaking as well to the Congress leaders who were present, made clear how far he had come from his position of a decade earlier. Over half of his speech was given to a precise analysis and denunciation of government repression. He then continued on the theme of Hindu-Muslim relations:

> The secret of the success, not merely of the Reform Scheme, but of all the work which is being done by Indians in India and abroad, lies in Hindu-Muslim unity. Hindu-Muslim relations. . . appear to be infinitely more satisfactory than they have been in past years. The question of Government appointments is no longer capable of engaging our attention to any appreciable degree.

He called on Muslims to give up sacrifice of cows as a response to the generosity of Hindu support for their cause of the preservation of the Khilafat. To encourage this, he argued in fundamentalist, legal terms by citing precedents of the Prophet to show that sacrifice of other animals was preferred. Such an argument, of course, had little impact on a practice that now often had less to do with religion than with communal self-assertion. Two years later he made the same argument to the Hindu communal organization, the Hindu Mahasabha, whose annual meeting he chaired in keeping with the view of the complementarily of religiously-defined and territorially-defined institutions.

A second major theme, directed more to the British than to other Indians, was his insistence on the power of Muslims and the extent to which their loyalty depended on the nature of British activity in the Muslim world. His underlining of the importance

of a pan-Islamic identity was not meant, he explained, to raise questions in anyone's mind of Muslim loyalty to their own homeland.

> I am aware that the exceptional nature of events now happening in the Muslim world has led me to dwell at length on topics of exclusively Muslim interest, but I have done so advisedly and in the confident hope that it cannot, at this time of day, lead any one to doubt the Musalmans' vivid consciousness of the solemn duty they owe to their motherland. As children of the soil, they know and fervently desire to fulfil their duty to the country of which they, in common with Hindus, Christians, Parsis and other communities are the proud inheritors. . . . For India the unseen future holds a magnificence and splendour compared with which the most glorious grandeur of her past will be but small. Let all hands of mer as well as of women join to unveil that vision.

Ajmal Khan's final comment was more than a stirring conclusion, for he worked ceaselessly for that kind of unity.

He had a vision of Hindus and Muslims not only living side by side but of knowing each other's cultures and interacting with each other in common institutions. During the final years of his life, he worked tirelessly for the foundation of a nationalist Muslim university, the Jami'a Millia Islamia, a school founded for Aligarh students who wanted to join the non-cooperation movement; it was later established in Delhi. As first *amir* of the institution, he expected the students to know each other's culture: 'The firm foundation of a united Indian nationhood depends on this mutual understanding'. Along with Maulana Azad, Dr Ansari, and Muhammad Kichlu, he was one of the prominent Muslims who continued Congress membership during the 1920s. He supported C. R. Das in the proposal to participate in the government's councils in order to work for further change from within. As perhaps his final political effort before his death, he was one with the nationalist Muslims who accepted the Nehru Report of 1928, a proposal meant to reconcile Muslim and Hindu constitutional demands; it included, among other proposals, the acceptance of joint electorates in the hope that candidates would then be forced to a moderation acceptable to members of the other community.

Against the background of these educational and political efforts, India, in the final years of Ajmal Khan's life, witnessed intensified communal bitterness and experienced many violent communal

incidents. A series of riots began after the calling off of the non-cooperation movement when it appeared to Gandhi that control could not be maintained. In Delhi Ajmal Khan had been able, in 1919 for example, almost single-handedly to maintain control and organize a shadow government to police disorder. In the Multan riot of 1923, by contrast, he met complete failure and could only tell the Punjab Congress Committee in his parting words that their communalism would undo everything: 'You will always be slaves'. In 1924, as the list of troubled cities grew, a peace conference met in Delhi, working mostly at his house. The calling off of non-cooperation, the bursting of the pan-Islamic bubble with the Turkish abolition of the Khilafat in 1924, the intensification of communal rivalry with the implementation of the provincial reforms, the deteriorating economic situation—all this contributed to an ever-worsening situation. As the situation deteriorated, so too did the hakim's health and in 1925 he left for Europe.

Ajmal Khan died a relatively young man, utterly exhausted and utterly defeated in the vision of 'glorious grandeur' he had expected. Hindus and Muslims jointly to unveil. He left behind him two institutions of considerable promise: the Tibbia College and Jami'a Millia—one the child of his youth, the other of his old age, as Muhammad 'Ali said. His hopes for a common nationalism were belied by events on every side. His expectation of the possibilities of a plural nationalism in which emotive religious identities existed concurrently with a national culture ended in disappointment. His experience hauntingly echoes that of Sayyid Ahmad Khan a generation earlier whose vision similarly faltered, in his case in his expectation that the special relationship of the Muslim elite with the rulers meant that they could relate to each other with dignity and respect.

The Khilafat leaders and nationalist Muslims generally believed that a religious-based identity focused on public symbols of the faith could exist as a complement to a composite nationalism. Ajmal Khan justified religiously-defined associations and identities throughout his entire life. A position like his was evidently sincere; it was also theoretically possible that the kind of society he envisaged based on religious community could have worked out in India as it had elsewhere. In the situation of British India, however, the encouragement of separate organizations and identities only served to exacerbate competition and communal tension—however little that may have been intended.

Ajmal Khan had no experience to understand the local tensions and rivalries that lay at the base of communal riots; he stood before them dumbfounded. His own career in both medicine and politics had been built on forging alliances among the elite—with the princes, with the British, with professional allies, and with political leaders—and not with building up local constituencies where such tensions were a reality. He created in indigenous medicine an area of accomplishment and a symbol of both communal and national pride. He expected in vain the same kinds of accomplishments in forging a unified political life, but this goal failed in a context where other demands and priorities outweighed his.

Ajmal Khan is remembered as a nationalist Muslim. The many meanings of that term must be peeled away to do justice to the content of his career. Two broadly separate stages must be identified, first that of an Aligarh (and later a Muslim League) orientation in the defence of the interests of the well-born and the preservation of cosmopolitan Muslim cultured symbols; and second, that of identification with emotive, public symbols of Muslim social identity and collaboration with non-Muslims against British rule. Both stages focus on Muslim corporate identity defined in the first case by a cluster of aristocratic, cosmopolitan symbols, in the second by emotionally charged symbols associated with being part of a larger Muslim world and by the very fact of being Muslim. They contrast with the symbols of the reformist ulama, weighted toward personal fulfilment of the religious law. In each stage, Ajmal Khan, again in contrast to the early reformists, sought collaboration with non-Muslims, first with the British and then with the largely Hindu Congress; and he insisted on an active political life. The initial stance of Muslims like Ajmal Khan was predicated on many of the same assumptions that had characterized princely political life, but the vision of well-born Muslims as privileged participants in rule was doomed both by the colonial situation and the reality of a plural society. The subsequent expectation of intense communal identity in harmony with a unified nationalist programme was similarly to give way after Ajmal Khan's lifetime toward the ideal of a more secular nationalism on the one hand and the demand for a separate Muslim state on the other.

Throughout, religious identity remained the fundamental building block of most political positions for Muslims; and the

language of political discourse in shifting contexts drew on the repertoire provided by Islam. Islam offered a wide range of orientations, not one single stance, a range whose symbols shifted from the cosmopolitan; to those of personal religious responsibility; to symbols of a charismatic community; to those of a shared national culture. Ajmal Khan in his life knew this entire range. This variety, as well as the evident crisis in social and political life that the riots displayed, suggest the anguish of trying to find a satisfactory definition of Muslim political identity in the long period of colonial rule in India.

The learned let flow the river of learning, then went on;
The preachers of our race awoke the sleeping, then went on;
Some spoke well, showed their magic, then went on;
Some were messiahs, raised the dead, then went on;
One plank of your broken boat remained to you;
The flood of death, O *Delhi*, took it off too.
O *City*, it seems from you has gone the greatness of the race;
Departed now long since is the honour of the race;
But wait-Mahmud Khan's strength was an honour to our race.
But he, too, left the world. Alas, the fortune of our race!
What will you show now to recall the former times? Well?
In whom will you take pride now, O *Jahanabad?* Well?

Altaf Husain Hali, on the death of
Hakim Mahmud Khan, 1900

Physicians of indigenous medicine have long brought distinction to the city of Delhi. Hakim Ajmal Khan, was the son of the Mahmud Khan celebrated above. He is known to students of modern India for his efforts to professionalize Islamic medicine *(yunani tibb)* and for his involvement in nationalist politics, particularly in the years immediately following World War I when he worked closely with Gandhi and others committed to Hindu-Muslim unity in the nationalist movement. Ajmal Khan's life exemplifies qualities characteristic of the notables—the *rais*—of Delhi of his times. Social leadership like his was based on professional skills and, above all, on personal qualities that together provided a standing quite apart from any formal office or political

position. It is thus wholly apt that toward the end of his life Ajmal Khan was spoken of as 'a king without a crown'.

Both Ajmal Khan and his father were towering figures in the city of Delhi. Professionally, both were considered unrivalled in their ability to effect seemingly miraculous cures. Socially, they were part of the cosmopolitan Persianate culture of the old Mughal capital, men of refinement, cultivated tastes, and accomplishments. Ajmal Khan, as a poet, was known as Shahid Dihlawi ('the possessed lover from Delhi') and was the author of a substantial *diwan*. Most of Ajmal Khan's friends were Muslim, but true to the ethos of this world, his circle included Hindus, too, and even a few British, men like C. F. Andrews and Lord Hardinge, who valued the culture of Delhi's élite and were at least on its fringe. On religious matters, Ajmal Khan outspokenly deplored the reformist religious movements of his time; he saw them as sectarian and divisive. The father, and even more the son, participated in the changing political structures of their times. The British officials of Delhi long regarded both as men of good sense and modern inclination.

Ajmal Khan's public career evenly spanned the four decades at the turn of the century. In this period, effectiveness as a local notable was increasingly enhanced by effectiveness in a larger arena. Ajmal Khan in this period moved to create central institutions for indigenous medicine and its practitioners, and became himself a national figure. His widening circles of influence point to significant developments in the history of Delhi and of India in general. In part the institutions Ajmal Khan was associated with represent developments within pre-existing structures, like the family; and in part they represent the creation of new, formally organized institutions based on shared interests rather than origin, and organized for a wide variety of political, educational, and social ends. These institutions were made both possible and necessary by new developments in communication and transportation on the one hand and a new structure of political life on the other.

Ajmal Khan was motivated in his endeavours by the view of Muslim decline that inspired Hali's verses above. His concern for the preservation of his art was closely linked to his concern for Muslim status and welfare. This did not conflict with his close relations with non-Muslims and his desire to work closely with them for shared purposes. His measures for the preservation and

encouragement of indigenous Muslim medicine were not an isolated endeavour, but one of many movements for cultural self-esteem in this period of alien rule. The revival of medicine was notable among the many movements of this period because it involved a great deal of interaction with its Western counterpart and because medicine was not a religious but a communal symbol of Muslim society. The institutional and intellectual developments in medicine in this period reflect these two characteristics.

Part of Ajmal Khan's effectiveness derived from his belonging to a distinguished and respected family. Although perceived as an unchanging institution, the family in fact took on new importance for those engaged in cultural activities like music and medicine at this time. The great scholars and artists, particularly those in Delhi, had depended on patronage from the royal court and from nobles associated with it. With the end of this patronage, they adopted new strategies to sustain themselves, of which one was to place far greater emphasis on the family as an institution and focus of identity. Exactly when the title 'sharifi' to identify Ajmal Khan's family came into common usage, for example, is not clear. It harks back, however, only to the great *hakim*, Sharif Khan who flourished in the eighteenth century; built the family mansion and mosque in Ballimaran, the street of poets and *hakims;* and wrote widely on a range of scholarly subjects. In the second half of the nineteenth century, at exactly the same time and for the same reasons that the *gharanas* of musicians became important, physicians focused more centrally on their lineage and their past, in this case producing memoranda and biographies to help shape a sense of their corporate identity. Hakim Mahmud Khan's *Dar hal-i bazurgan-i khandani wa sar guzasht-i khud*, written in Persian, established the arrival of the family in the subcontinent at the time of the emperor Babar; and his sons, including Ajmal Khan, investigated such questions as the places where later members of the family settled. Biographies of Ajmal Khan inevitably begin with a survey of his lineage and can claim, as at least one does, that for three hundred years there was an unbroken succession of distinguished doctors.

The advantages of a family identity were clear. It provided a focus for reputation and recognition, particularly important as *hakims* came to travel more widely in a new era of transportation and foreign rule, in search of patrons instead of staying in Delhi. It also provided for control of education, 'quality control' in locating

instruction within a single family of repute: a scion of the *sharifi khandan* could expect recognition for superior training. The family focus could also keep professional secrets private since in both medicine and music it had come to be understood that the great families had esoteric techniques to create the magic that both arts sometimes seemed to possess.

In medicine, however, far more vulnerable to the competition of a Western system, the institution of the family came to be perceived as insufficient. In the case of medicine and music both, in fact, the late nineteenth century saw the foundation of formally organized schools. But these were to go much farther in medicine than in music in becoming the most significant arena of education. Nonetheless, respect for family accomplishment and heritage continued to be of great importance; and for a *hakim* to be known as part of one of the great Delhi families—the families not only of Sharif Khan but of Hakim Baqaullah, Hakim Talib Ahmad, and Hakim Ghulam Najf Khan—was an important claim to recognition even as schools and organizations developed. The British, for example, thought of Ajmal Khan at the centre of an influential family network. When in 1916 he submitted, at their request, a list of the distinguished *hakims* of Delhi, the Chief Commissioner immediately tallied up that over a sixth of the forty-two names were of the family and another third of people trained in their school.

Reform in medicine, as in religious education, involved new institutions. In 1889, inspired by the new college at Aligarh, Ajmal Khan's elder brother, Hakim Abdul Majid, opened a new school in an attempt to make the family-base of instruction more formal and coherent. The teachers were the family and the school remained in Ballimaran. Even then there was opposition directed primarily toward the family's insistence that *yunani* medicine must be open to Western techniques, notably in surgery and anatomy. Characteristic of Islam, where a legal idiom permeates all realms, this was judged a reprehensible innovation, *bida'*, and the *sharifi* family was denounced as *kafir* and *murtid*. The family launched yet another tool of more extensive influence, the newspaper *Akmal ul-akhbar* managed by a Hindu disciple of the poet Ghalib. It was meant to defend reform in medicine and to survey political and cultural issues generally. In 1902 Ajmal Khan began a second publication, the *Mujalla-yi tibbiya*, a monthly with news of the school and essays on *tibb*.

From the beginning there was concern over financial support for the school. The brothers moved to found a pharmacy, a *dawakhana,* that would provide both *yunani* and *ayurvedic* medications. At first a joint stock company, it was later made a pious endowment vested in the madrasa. It was significant in two ways. First, it meant the end of family secrets since all the family remedies were given over to the *dawakhana*. Second, it anticipated a standardization of medicines instead of the highly particularized compounding of remedies for each patient on the basis of his constitution and environment. The *hakims* of course continued to prescribe for each patient, but the existence of a separate manufactory was a first step toward the patent medicine available now. Known as the Hindustani Dawakhana, its elegant building in Ballimaran was opened by Raja Kishan Kumar in 1910. It had branches all over India.

In 1901 Ajmal Khan's eldest brother died; the middle brother died three years later. At that point, Ajmal Khan took the central role in the school and its related activities. In that same year he made an appeal for funds for the school at the Delhi town hall, with the deputy commissioner present, citing proudly the number of graduates (some sixty-five) and pointing out the service to the *watn;* the homeland, such education provided. In 1906, he founded a Tibbi Conference to tie physicians together and to disseminate his arguments on the need to reform medicine: to know the classic books; to be open to new problems and solutions; to develop the indigenous pharmacopia; and to join with *vaids* (doctors of *ayurvedic* medicine) in common concerns.

Ajmal Khan and his fellow reformers directed their efforts toward other Indians in order to deny other practitioners legitimacy, and toward the British in order to gain recognition from them. They strongly opposed the practitioners of unsystematic folk medicine, often midwives and other women. The ninth book of the reformist *Bihishti Zewar,* an encyclopaedic work directed toward women, sets out the principles of scientific medicine precisely for this reason. Because of this concern, it is not as surprising as it might seem that in 1908 a department for women was opened at the school. It was never well attended, but it set the precedent that still continues of educating women in high culture medicine. A second internal target was little-educated *hakims* and *vaids* who claimed learning and recognition. The Tibbi Conference and later organizations fought to claim a monopoly of legitimacy for those

educated in their institutions. They were not only concerned about out-and-out quacks, but about those who attended second-rate institutions. They periodically called on the government for help in what proved an intractable problem. In 1925, for example, there was a protest against the indiscriminate hiring of indigenous practitioners by the Delhi municipality and a complaint of lack of differentiation 'between the Hakims and Vaids who have not qualified themselves in any recognized and regular institutions and those who have done so, and among the latter between the diploma holders of those institutions whose course of study extends over *four* years [and those of two].' Ajmal Khan had little patience with those who did not educate themselves well: 'The class referred to [as incompetent] have only themselves to blame if they have failed to raise the standard of their attainments.'

The reformers never made out that their target practices originated in the Hindu tradition. This distinguishes them from Muslim reformers in most other areas. In part this was because the challenge to the *yunani* system was perceived not as *ayuruedic* but Western medicine. To answer that, not only were techniques to be borrowed from Western doctors, but equivalence was to be created, both theoretical equivalence by emphasizing *yunani* theory, and institutional equivalence through professionalization. For that to be possible, at least minimal recognition was necessary from the government.

For over a decade, beginning in 1908, Western medicine challenged a specific issue, the attempt by British and Indian allopathic physicians (as they were called) to secure registration acts in each province, so that no doctor of indigenous medicine could be legally recognized to give testimony in legal disputes, to certify illness for workers, or to perform any other legally required function. Ajmal Khan saw this attempt at establishing a monopoly in legitimacy as the death-knell to his profession. He lobbied extensively against the acts, and in 1910 he created the All-India Ayurvedic and Unani Tibbia Conference, an outgrowth of the earlier Tibbi Conference, to enlarge the organization of *hakims* beyond family units and to offer a united voice to the government. That voice, joined later by the Trustees of the College, insisted on the legitimacy of indigenous systems and set standards for indigenous practitioners to make them worthy, as they understood it, of recognition.

As Ajmal Khan's institutional base grew stronger and encompassed a wider geographical area, opposition to him increased, particularly from the *hakims* of Lucknow. Although they objected to cooperation with *vaids* as potentially damaging to their system, this was not matched by any effort to expunge the elements that had evolved in *tibb* in the Indian environment. The real issue appears to have been geographic rivalry. The Lucknow physicians felt that these new institutions threatened their prestige to the benefit of the Delhi doctors—a rivalry, as one writer noted, well known to poets of the two cities, but hardly to physicians! In 1911 the annual meeting of the new conference was held in Lucknow itself and Ajmal Khan drew on medical metaphors to make his points: As in the body each part is dependent on the other, so now all must work together—the League, the Congress, the *vaid* and the *tabib*. Ajmal Khan insisted that the conference was not an organization limited to Delhi, but a nationwide one; and it continued to meet outside Delhi in places that included Amritsar, Lucknow again, Patna, Rampur, and Karachi.

Ajmal Khan continued to be concerned with the *madrasa* in Delhi whose status he wanted to raise to that to a national college teaching both *yunani* and *ayurvedic* medicine. A trip to Europe in 1911 convinced him of the importance of institutions like the ones he saw there. The decision to move the capital to Delhi, a move he interpreted as a favour to a backward area, was the occasion to request land, which he successfully did, in Karol Bagh to the north-west of the new buildings. The funding came largely from princes, with a sprinkling of merchants and others of the well-to-do joining in. The buildings themselves recall Aligarh, and are much closer to the traditionalist Indo-Saracenic than to the classical style the British had come to prefer, and included a large square for an experimental garden in front of the main buildings, and playing fields behind. The buildings were meant to recall past splendour, not present empire: 'If you see the buildings from afar', wrote an associate of Ajmal Khan, 'they seem like a broad expanse of the splendid buildings of the Mughals.'

The foundation stone of the Ayurvedic and Unani Tibbiya College was laid by Lord Hardinge, the Viceroy, in March 1916, and the college was formally opened by Gandhi in 1921. Gandhi on this occasion frankly acknowledged his scepticism about the school. He called the medical systems black magic and said he held all medicine a sign of failure to lead a well-ordered life. His

motive in attending was political—to show his respect for this joint Hindu-Muslim venture and for the non-communal stance of Ajmal Khan. Despite such scepticism and the pressing political activities of those years, Ajmal Khan continued to press for the foundation of more *tibbiya* colleges and departments in universities throughout the country.

It is striking how quickly the transition to formal education for medicine was made. A memorandum to the Delhi government in 1916 showed that almost all doctors were educated in schools, with only two distinguished *hakims* still educating pupils privately. Outside Delhi there were now schools in Lucknow, Hyderabad, Lahore, Amritsar, and Bhopal. In part, medicine had traditionally been considered accessible through books, without the personal presence of a teacher and guide who embodied the reachings, the more usual form of education. In part the push to professionalize in this context of British rule and of a competing system of medicine was very great.

By the early 1920s, Ajmal Khan had created three lasting institutions: the central college in Delhi; the pharmacy or manufactory of indigenous medicines; and the Tibbi Conference, later the All-India Ayurvedic and Unani Tibbia Conference. Following the passage of the Montagu-Chelmsford reforms of 1919, medicine was made a provincial subject under the control of elected ministries. From that time on, the issue of official discrimination against indigenous practitioners was dropped and governments to varying degrees supported the indigenous systems, a practice that has continued to the present.

In the course of creating formally organized, all-India institutions, Ajmal Khan succeeded in winning the support successively of three significant groups of elite patrons. An important strategy for the *hakims* from the nineteenth century on had been to cultivate the patronage of the princes whose courts flourished when that of the Mughal emperor did not. The pattern of seeking close ties with princes for both financial support and often residential base, continued as British rule became firmly established from the late nineteenth century. The particular structure of imperial rule in India preserved and enhanced the position of segments of the old elite who had both means, and, in their dependent situation, motive, to patronize those who enhanced their status and their sense of cultural worth—precisely in such areas as traditional art, music, and indigenous medicine. This

accounts in part for the continuity of these traditions here in contrast to their eclipse in the Middle East.

Mahmud Khan was particularly tied to the Raja of Jind; his brothers to the Maharaja of Patiala. These ties protected the family in the revolt of 1857 when their house in Ballimaran became a storehouse for the valuables of others who fled and Mahmud Khan intervened on behalf of those accused. Ajmal Khan himself was the protégé of the Nawab of Rampur. As a young man he spent nine years at the Nawab's court and developed with him the kind of passionate bond of friendship that was so cherished by men who were part of this cultural world. When Ajmal Khan died, the Nawab said, 'I am a Shi'i in religion and do not accept the relationship of spiritual guide and disciple *(piri-muridi)*, but I know that if I were anyone's disciple in this world, I would have been Ajmal Khan's. What things I found in him cannot be found in the greatest saint.' After he gave up residence at the court, Ajmal Khan continued to receive a pension from the Nawab and hastened to him when any of the family needed care or when the Nawab wanted him to be there.

Particularly in the twentieth century, the *hakims*, again like the musicians, travelled to the courts of the princes, the former when summoned for illness, the latter for scheduled engagements. The biography of Ajmal Khan, written by a man who was briefly his 'private secretary' in fact chronicles his visits: Rampur, Kashmir, Patiala, Jaipur, Bahawalpur, Bundlekhand, Balrampur, Baroda, Kutch, and so on. Even for princes, the rule held that they paid no fees if they themselves came to Delhi. If summoned to a court, however, Ajmal Khan charged an astonishing one thousand rupees a day. When a young man of the *sharifi* family was accused after World War I of travelling to the frontier for subversive activities, his defence was not only his integrity and the honour of a distinguished family, but the inordinate financial handicap of being confined to Delhi where, by long established custom, the *hakims* of his family charged no fees. Princely patronage was not limited to largesse to the great *hakims*, but involved the employment of doctors on a regular basis, for example in Bhopal where each *tahsil* had a *yunani* dispensary. For Ajmal Khan, the continued support of princes was essential to his success, as he moved into new political and educational endeavours far different from the activities one would earlier have expected from a traditionally-learned man with noble patrons.

Ajmal Khan's ever-widening activities in medicine and politics were inextricably intertwined. His motive in both was to secure the cultural heritage and the position of well-born Muslims. A generation younger than Sir Sayyid Ahmad Khan, he shared much of his view of the perilous state of Muslim fortunes, and of the need to redress those fortunes by assimilating to British modes of behaviour; by acquiring some of their technical skills; and by cultivating a special relationship with them. Ajmal Khan was not alone among *hakims* in continuing as an influential figure in Delhi, and, indeed, the *hakims* were unusual among Muslims in continuing their civic role after the eclipse of Muslim fortunes in the city after the Mutiny. From the beginning of the Delhi municipality in 1863 up to 1921, three *hakims* served substantial terms and played an active role in local politics.

Ajmal Khan, like Sayyid Ahmad, moved successfully to establish himself as a credible and influential figure in the eyes of the British. C. F. Andrews, who came to Delhi as a missionary but soon became absorbed in Indian religion and nationalist politics, described 'an ever closer friendship' with him over some twenty years and saw him as a Christ-like figure, ministering to the sick and oblivious of his own narrow interests. Sir Theodore Morison, at Aligarh, helped facilitate his trip to visit hospitals and medical libraries in Europe in 1911 as did Lord Hardinge himself. His relations with these Englishmen were not merely expedient; he admired and valued them, as he did Lady Hardinge, for their commitment to India and to Indians.

Government records reveal both explicit comments about Ajmal Khan and implicit actions based on the respect he enjoyed. When opinions were sought on current issues, his were taken seriously and others' brushed aside. His behaviour was taken as a measure of others' opinion. Hailey, the Chief Commissioner, wrote to the viceroy in 1913, 'He is a man whose opinion [on Muslim feelings generally] is of great value as he comes across all classes of men and has a very sound judgement in all such matters.' And when he was moved to action, officials were truly worried: 'A somewhat disquieting symptom is the fact that . . . . Ajmal Khan departed from his previous policy of keeping aloof from such gatherings and was not only present but is reported to have approved of a virulent speech . . . . If the really influential men are to be goaded into a more active line, the situation will require still more careful watching.'

The officials formed a second group, after the princes, from whom Ajmal Khan could expect protection and support. Their attitude toward his work in indigenous medicine and his insistence on governmental recognition of its importance was ambivalent (as was Gandhi's). But Ajmal Khan found arguments that implied that he shared their respect for Western systems and appreciated, as they did, the importance of politic action. He pointed out that the people of India could not for generations have adequately trained allopathic physicians and that the indigenous doctors were in fact learning from areas where Western medicine was superior. And he reminded the British that measures that denied legitimacy to indigenous practitioners would wound nationalist pride and create public disaffection. Support for Ajmal Khan rested in large part on official belief that he and his cause were politically important. In this regard it is particularly striking to see a long letter, prepared in 1916 by one of the *hakims* of Delhi, arguing the futility of trying to develop the research side of the indigenous systems. He made a quite modern assessment that the pressing need was for more practitioners of all systems trained in basic health care as well as for the kind of public health measures the government had already identified as chiefly responsible for controlling cholera, smallpox, and plague. The letter was filed with the comment that Ajmal Khan alone had been consulted. Official action was based as much on politics as on medical science.

In 1927, the then Chief Commissioner of Delhi presided over an occasion at the Ayurvedic and Unani Tibbia College and recalled the association of earlier officials with late *hakim*'s endeavours:

> Though this great institution is not in any sense a Government institution it has often looked to Government for help and friendly countenance. The land on which these buildings stand was provided by Government and interesting stages in the career of the institution have been marked by the presence of Government officers. The Deputy Commissioner opened this school in 1889. Twenty years later the Lieutenant-Governor opened the Zenana Madrasa. In 1916 you had the signal honour of having the foundation stone of the college laid by His Excellency Lord Hardinge and now that you are making another big stride forward, you have done your Chief Commissioner the honour of asking him to declare your Research Institute open.

He did not note that when the college was opened it was not the viceroy—as had been predicted even five months earlier—but Gandhi who presided. But then the nationalist histories do not recall that even on that occasion life-sized portraits of Lord and Lady Hardinge were unveiled.

By the post-war period Ajmal Khan had added, as we have seen, a third group of powerful partons to aid his endeavours, namely that of the nationalist 'leaders'—the English word was always used. And he continued to have the impressive ability to attract new elements of support without completely losing the old. He himself was a member of the Simla delegation in 1906, active in Muslim League politics until 1918, and a strong supporter of Aligarh. He strongly believed in what he considered to be the non-sectarian stance of Nadwa, an institution that hoped to create a united front for Muslim religious leaders throughout India, and was active in that organization from 1910 until shortly before his death. He played an active role in Kanpur at the time of the mosque incident of 1913, a landmark in creating a non-local Muslim leadership, and shared the concern for Muslim interests in the Ottoman empire that stimulated Muslim political emotions and solidarity. It was his role in launching a medical delegation to the Balkans in 1913 that made him, as one biographer wrote, not only a *tabib-i haziq* and a *rais* of Delhi, but a great 'leader' of the Muslims. In World War I, he became alienated from the British because of their repressive policies and because of such personal experiences as the imprisonment of his nephew noted above. He became active in Congress and insisted that Muslim interests were best served in that organization. He supported non-cooperation and returned the title that had been awarded to him by the British in 1907. In 1918 he was chairman of the Congress Reception Committee and in 1921 he was elected president of Congress. He was active in the creation of the nationalist Muslim school and university, Jamia Millia.

In all these activities, Ajmal Khan was able to further his concern with the development of medicine by his political involvements. He persuaded other political figures of the importance of his projects. In 1917, for example, Madan Mohan Malaviya presided over the annual meeting of the Tibbi Conference and Sir Sankaran Nair at the annual convocation of the new college. Protection of indigenous medicine became part of the Congress platform. In 1920, in the annual report of the Tibbia

College, Ajmal Khan insisted on the identity of indigenous medicine and self-government, 'If we want to take the administration of government into our own hands, we must right all national things, including the indigenous method of healing. Our real progress depends on these things. We fail in serving our country if we are dependent on outside things.'

Ajmal Khan's life thus saw the development of new institutions, ever more formally organized and ever larger in scope, that became the basis of the *yunani* system; and he embedded these institutions in networks not only of like-minded physicians but of influential groups of patrons as well. Throughout he was aided by a political environment in which Muslims sought to revive their cultural heritage; in which the idiom of British rule and the interests of some officials contributed to a fostering of much in the traditional culture; and in which nationalists focused on some aspects of the shared culture as a source of indigenous pride.

Indian art and music were particularly important in this last regard, but medicine, through the linking of *yunani* and *ayurvedic*, was too. *Yunani* medicine itself, moreover, had always been part of cosmopolitan Muslim culture, drawing on varied traditions and open to Muslims, and non-Muslims both. As medicine underwent revival in the modern period, it was increasingly secularized, at least in the colleges and conferences, and emphasis given to the scientific principles that underlay it. The religious superstructure that sanctioned medicine and the use of amulets and prayers to accompany it had no formal place. This made it the easier to argue for British support and then nationalist support successively. Theory aside, medicine was available to all. 'My first visit to the waiting room', wrote C. F. Andrews, 'brought home a shock to the opinion I carried from England that Hindus and Muslims could not mix. [Ajmal Khan] treated all alike, Hindu and Muslim, rich and poor.'

While medicine was not an expression of religion in the narrow sense, it was an expression of Muslim culture and a source of Muslim pride. The verses cited at the opening of this chapter reflect what might be called the Aligarh view of the situation of Muslims, with its emphasis on the decline of the community from the glory of the historic past. Ajmal Khan himself, in the introduction to the catalogue he prepared for the Nawab of Rampur's library in 1901, identified himself with what might be called this 'Orientalist' view.

> The remains of world civilization and progress are found in many forms. Sometimes an old city appears by chance. . . similarly the writings of each *qaum* point the way to the thought of that *qaum* for future generations. Although the sun of Eastern arts and sciences kept rising in its own time and many *qaums* drew benefits from its light, now that sun has declined and the age, as is its habit, has given birth to a new sun that fulfils the needs of the people of the age . . . . The results of this reversal, which previous nations have already endured, will happen to us: we will see our former greatness and glory in the hand of oblivion if we do not take thought to preserve it.

His life's work was to stem reversal in the area of medicine.

Ajmal Khan's non-communal strategies for his work were shaped in part by the fact that medicine, while a symbol of Muslim pride, was outside the core religious subjects and was open to all. But they were also shaped by his rootedness in Delhi's cosmopolitan culture and his personal experience of being part of a composite elite. One of Ajmal Khan's most effective experiences came in the terrible riots of 1919 when he and Swami Shraddhanand, single-handedly quieted the city and were at the centre of an informal shadow government. He was 'a king without a crown'. 'It was then', wrote Andrews, 'that I saw the Hakim Sahib in all the true greatness of his character. Night and day he laboured for peace.' Ajmal Khan's role as a privileged Muslim in pre-Lutyens Delhi gave him an aristocratic vision: in some ways he and people like him were the city. This is implicit in Hali's verses above that identify the fortunes of the *qaum* with the fortunes of the city, which he apostrophizes to give the lament its power- Delhi's glory and the glory of the *qaum* are the same. Ajmal Khan's work made the explicit assumption that it was in everyone's interests that Muslim culture be preserved and that the obvious strategy for this was collaboration in common interests, medicine and politics both.

In this, Ajmal Khan moved far beyond Delhi. His base as a physician moved beyond his family to a national college and to an association that included both *ayurvedic* and *yunani* doctors from across India. Dependent on princely largesse, he did not, like his father, stay in Delhi, but was resident at the Rampur court and travelled constantly from state to state. As his ties with the British increased he was ready every summer to go to Simla, and he

travelled twice to Europe, in 1911 and 1925—trips that contrasted with his first travel abroad to Shi'i holy places in 1905. As a political leader, he followed the schedule of annual meetings of Muslim League and Congress. Ajmal Khan even changed in style of dress—from the princely embroidered cap and tight coat of his elders, to the sherwani and Turkish fez of Aligarh, to homespun under Gandhi's influence, to a Western suit on his last trip to Europe. In all his widening circles he remained a man of enormous self-discipline, self-sacrifice, and singleness of purpose. He was in no sense the marginal figure this versatility might suggest. His standing in Delhi as a *rais*, distinguished by his aristocratic origin, his cultural breadth, and his medical skills, provided him the base for becoming an influential leader committed to securing Muslim interests in the context of Hindu-Muslim cooperation.

6

Modernity, and Muslim Identity in India before 1947

> If there is one other sin with which I charge Great Britain, in addition to the charge of emasculating India, it is the making of wrong histories about India and teaching them to us in our schools.
>
> *Mohammad Ali*, addressing the Plenary Session of the First Round Table Conference in London, 19 November 1930

The study of nationalism as a phenomenon has changed profoundly in recent years, in part because of a focus on world history that not only encompasses multiple areas but also looks afresh at the processes and interrelations among those areas. In the case of nationalism, the conventional assumption has been that metropolitan developments flowed from a centre to a periphery: thus, that nationalism arose in Europe and was transplanted elsewhere. Instead, recent work by Benedict Anderson and others has placed metropolitan and colonized areas into a single historical space where many processes, in fact, have turned out to be simultaneous and the product of complex interactions. The most fundamental institutions of society and economy, even the very concept of the nation, along with gender, class, and caste, prove to have been constituted as part of these interactions. One

dimension of this is that terms that have been used as scientific categories, not least *modernity* and *secularism* on one side, and *tradition* and *religion* on the other, are increasingly studied as political categories dependent on each other.

I want to illustrate this by some comments on Muslims in northern India in the 1920s and 1930s, focusing on a pietist movement called Tablighi Jama'at that has typically been taken—and indeed takes itself—as 'traditional' and 'apolitical'. This is an oblique perspective from which to raise issues related to nationalism in contrast to a focus on the Indian National Congress or the Muslim League, which were centrally involved in the nationalist movement.

But Tablighi Jama'at, in fact, participates in characteristics shared by both these movements as well as by other movements typically glossed as 'modern' or 'social reform'. Calling Tablighi Jama'at traditional, however, served its participants to confirm their authenticity, much as nationalism, however modern, must always seem timeless. And calling Tablighi Jama'at traditional or fundamentalist or reactionary—allows opponents to constitute themselves as modern and, indeed, nationalist—adherents of a nationalism that sees itself justified in implicitly excluding certain categories of people from true citizenship, among them those relegated to the category of traditional or obscurantist. We need therefore to question the meaning of binaries like traditional and modern, yet, simultaneously we need to recognize the necessity of the dichotomy for creating the very categories they purport to describe.

Mohammad Ali's comment at the beginning of this essay is an invitation to rethink the place of movements like Tablighi Jama'at in our telling of twentieth century Indian history. The sections that follow attempt, first, to open up the description of the activities of a movement like Tablighi Jama'at in order to appreciate its complexity; second, to recognize Tablighi Jama'at's own implicit contestation with the narratives into which it is placed; and then, in the final section, to tease out dimensions of the intimate and interdependent relationship between movements and approaches that are not the dichotomies they purport to be.

Tablighi Jama'at : Social Reform, Political Silence

The Tablighi Jama'at movement enters most historical narratives as part of a mutually aggressive communal reaction to the failure of the Khilafat and Non-cooperation movements of the

early 1920s. Alliterative pairs are often counterposed: Tabligh and Tanzeem of the Muslims, Shuddhi and Sangathan of the Hindus. The area of Mewat associated with the early period of the Tablighi Jama'at movement was, in the 1920s and 1930s, in fact rife with competing proselytizing movements both Hindu, including the Arya Samaj, and other Muslim movements (among them others named 'Tabligh'). This was where the mass contact movement of the Congress, with the enrolling of '4 anna' members from 1920 on, took place. These movements were clearly not all the same. Thus, in the case of the Tablighi Jama'at, rather than see it as simply competitive with external groups, one can equally see it as a vehicle for social mobility and community, geared not at all to external confrontation but to internal issues very much like those of concern to the reform movements glossed as modern.

Here is an excerpt from an Urdu history of the movement, describing one of its founding moments:

> Thanks to the deep relations Maulana Muhammad Ilyas had with the people of Mewat, in August 1934 a *panchayat* was held under his chairmanship in the qasba of Nuh. In it were gathered *chaudhuri, miyan ji, zaildar, in'amdar, nambardar, subahdar, munshi, safeed poosh,* and other forward-looking *(sarbarawarda)* people of the region of Mewat [those listed are government functionaries, hereditary headmen, individuals with claims to some book learning and piety]. Their number was approximately one hundred and seven. First of all at this meeting, the importance of Islam was discussed and then a compact *(ahd)* was made of total adherence to the pillars of Islam, of collective work for spreading religion, and of creating *panchayat* for furthering this work. The pact entered into was for the matters noted below:
>
> 1. Correct recollection of the *kalima* [the attestation of faith].
> 2. Adherence to the canonical prayer.
> 3. Attainment and spread of education.
> 4. Islamic appearance and demeanour *(shakl o surat)*.
> 5. Adoption of Islamic customs and elimination of unfaithful customs *(rusum-i shirkiyya)*.
> 6. Adherence to modesty *(parda)* among women.
> 7. Performance of marriages in an Islamic style.
> 8. The custom of Islamic dress among women.

9. No abandonment of any Islamic belief and no acceptance of any non-canonical conduct *(ghair mazhab)*.
10. Protection and safeguarding of mutual rights *(bahami huquq)*.
11. Inclusion of responsible dignitaries in every meeting and gathering.
12. No provision to children of worldly education without religious education.
13. Effort and work for *tabligh* (preaching, proselytizing) of religion.
14. Consideration of purity.
15. Protection of each other's dignity and honour.

It was also decided in this *panchayat* that *tabligh* was not only the work of the religious scholars but a duty of all Muslims and, so that we all should undertake it, all that was decided was written down. The *panchayat nama* was compiled and the participants all affixed their signature. . . the message of faith was to be spread to all classes of the *millat*... temporarily leaving one's homeland was deemed necessary for this . . . . [Among the injunctions was to] act towards ordinary Muslims with extreme consideration and kindness; speak to them gently and adopt a kindly manner. Look at no Muslim with contempt or hatred and especially do not stint in respect and honour for the scholars of religion. . . . On one occasion Maulana Ilyas proclaimed, 'The real purpose of this movement is that the *ummat* be shaped by the full intellectual and practical system *(nizam)* of Islam'.

In describing the modus operandi of the Tablighis, the author further explains that 'Maulana Ilyas had prepared maps of all the *tahsil* subdivisions of Mewat as well as of the whole district of Gurgaon, set directions and routes, wrote out guidance for the preachers, as well as population of the villages, and the distance and the names of the *nambardars;* he thus established a proper system for *tabligh*'.

The vignette of this meeting recalls nothing more than the caste-uplift movements that proliferated across India in these decades. Groups of barbers or petty traders, led by their *panchayat*, the traditional 'five' who adjudicated disputes and led activities, would meet and pledge a range of behaviours that would bring them into conformity with the respectable in a process sometimes

called 'sanskritization' or 'ashrafization'. The targeted behaviours invariably included greater control over women, since the presence of women in public space was regarded as typical of the lower orders, and restrictions on their dress. Also, as here, there was typically a move to rationalization of expenses on such events as marriage that came to be seen as 'extravagance' once social relations were constituted on new grounds. These are movements that discourage custom in favour of more universally held norms; and they respond to broader social networks defined by behaviour and achievement, not only by birth.

Not only were compacts signed but they were often reproduced on lithograph presses, a brittle, yellowed copy still occasionally to be found. Injunctions, as evident here, ranged from fidelity to the holiest practices of the faith to everyday domestic practices. Thus women, who were encouraged from the beginning to go out in groups for *tabligh*, were, for example, to stay in houses with indoor toilets, a custom then unknown in Mewat but now common, as one history writes, 'through the blessing of *tabligh*', thus replacing the rural custom of night-time trips to the fields with the interior toilets of the urban and respectable.

Tablighi Jama'at is notable for its generalization of leadership to lay participants, a transition shared by many South Asian movements in the twentieth century. This characteristic is evident even in this early list above, not only in the guidelines for inclusiveness in relation to all potential participants but in the respect accorded to the most humble. The authority attributed to single elders now is diffused into the charismatic body of the group acting in concert. This movement provides a particularly far-reaching example of the larger move in religious organization from a 'vertical' to a 'horizontal' structure with the new emphasis on lay leadership.

Thus what is presented in the larger Tablighi Jama'at literature as a timeless reappropriation of pristine behaviour clearly has the push to shared, respectable norms of behaviour in an increasingly integrated and mobile society as one of its building blocks. The notion of *panchayat* with its lineage and village connotations soon gave way to the term *jama'at* or association, which, like the *anjuman* that proliferated in this era, meant a voluntary association, albeit in this case notably loose in its organization.

Like the other revival and self-help movements of the day, Tabligh Jama'at drew on new modalities of communication, not

least print; note here the reference to maps, statistics, and local officials, all of course intrinsic to colonial culture. Tablighi Jama'at leadership has often been drawn from the bureaucracy and the army, the latter in particular credited in recent years with the careful organization of the hundreds of thousands, even millions, who attend annual meetings.

Two further characteristics of this movement resonate deeply with fundamental shifts evident in other settings in this period, both deeply affecting individual behaviour and consciousness. One is the central focus on time, on managing time, measuring time—not wasting time—setting aside time for what is valued. A second is the interiorization and individualization of religious practice, for although participation in the group is central, participants also abjure the local customs of shrines and life-cycle ceremonies, minimize the role of the hierarchy as mediators, and have no expectations that social and political institutions will foster a moral life. That is left to the individual in such a way that—like speaking prose unaware—the Tablighi, living his everyday life in society, can be constructed as truly 'secular'. In all these ways, a movement seen as 'traditional' is strikingly new: new in its reach, new in its lay organization, new in its intensity, new in its modes of communication and organization, new in its self-consciousness as it deliberately strikes a 'counterculture' relationship to economic and political life. Tablighi Jama'at takes hold in profoundly different local settings and means different things at different times, but the themes emphasized here have been pervasive throughout.

Politics between Khilafat and Partition : Competing Historical Narratives

The absorptions of Tablighi Jama'at in fostering individual Islamic self-fashioning, and eschewing participation in public life, are more remarkable in the context of north India in this period. The 1920s ushered in an unprecedented period of religious violence, competition for leadership, and the decisive emergence of mass politics. This was specifically when competing historical genealogies of Muslim history gained currency, usually summarized as the 'nationalist' and the 'communalist' interpretation of Muslim identities, histories that increasingly legitimated divergent ideologies. Tablighi Jama'at leadership simply ignored these issues despite the fact of being led by the same kind of people who joined the association of *'ulama* (Jamiyat Ulama-i Hind) allied with the

Indian National Congress, and, in the 1930s, supported the state-oriented Islamist movement of Maulana Maududi.

All the movements of this era, including, notably, the Gandhian movement, included a spectrum of activities from what can be called the 'guidance-oriented' at the one end, with its focus on individual moral improvement, to the state-focused, political end, concerned with shaping and controlling public life, on the other. Widespread assumptions about Islam suggest that Muslim movements invariably seek that kind of political control. In fact, there are long and pervasive orientations within Islam that have precisely focused on the individual end of the spectrum, not least those associated with Sufism. Although in the quotation above about the purpose of Tablighi Jama'at, Maulana Ilyas speaks of an Islamic *nizam*, a word that takes on new meaning in the twentieth century with the Islamist movements of Hasan al-Banna in Egypt and Maulana Maududi in India, Tablighi Jama'at ideology has not even posited a staged programme with a focus on individual regeneration as a prelude to a changed society. The reorganization of society was simply left to some unknown future.

There was, moreover, a significant stream of thought, even among those engaged in the negotiations and competition of public life, to propose a vision of identity without territory. As Peter Hardy's study of the ideology of the Khilafat movement, and the subsequent proposals of the Jamiyat Ulama-i Hind have shown, the 'ulama who were engaged with Congress favoured a kind of community federalism far more concerned with legal guidance and education than with state institutions. Joined to the Congress leadership by a common desire to remove the British from power, they envisaged an independent India comprised of religious communities whose own leaders would provide a framework for justice, education, and welfare—a kind of 'jurisprudential apartheid'. In basic ways this was reminiscent of earlier polities, like the Ottoman *millat* system, whose leaders served as intermediaries in regimes defined by relationships of loyalty and protection, not universal citizenship and land. Thus the apoliticism of the Tablighi Jama'at—far from being peculiar to itself—is in fact not all that unlike the high politics of Muslim activists on the national stage.

When we turn to one critical dimension of defining community, that of constructing a historical genealogy, we also find a way of reconfiguring what are often taken as opposites. The usual binary

has been drawn between those who, like Muhammad Ali Jinnah, pursued separate Muslim political interest and those who cooperated with the Congress, 'from Azad to Rafi Ahmad Kidwai', about whom, Mushirul Hasan, for example, has written 'there was no trace of "Muslimness" in their public life, except during the Khilafat movement'. On the contrary, I would argue, virtually all participants in public life worked from the assumption that 'India' was a natural entity, inhabited by communities defined above all by religion. This perspective puts Jinnah and Congress on one side, the Tablighi Jama'at which opts out of a territorially based, national response, on the other.

The shared discourse is evident throughout the writings and speeches of the two great exemplars of what are, I suggest, wrongly taken as antithetical perspectives. Thus in a speech choosen almost at random given in 1941, Jinnah recounted the narrative of Muslims as a nation, once great and now fallen:

> [A] nation must have a territory. . . . Nation does not live in the air. It lives on the land, it must govern land, and must have territorial state . . . . It is the biggest job. . .since the fall of the Moghal Empire . . . . We come under the category of the fall. We have seen the worst days. . . . Our demand is not from Hindus because the Hindus never took the whole of India. It was the Muslims who took India and ruled for 700 years. It was the British who took India from the Musalmans . . . Our demand is made to the British, who are in possession. It is an utter nonsense to say that Hindustan belongs to the Hindus.

Maulana Abu'l Kalam Azad, in his celebrated address as Congress president at Ramgarh in 1940, assumed the same narrative line of India, invaders, and Hindus and Muslims, albeit to a different conclusion:

> It was India's historic destiny that many human faces and cultures and religions should flow to her, finding a home in her hospitable soil... One of the last of these caravans... was that of the followers of Islam. . .. This led to a meeting of the culture-currents of two different races... . We brought our treasures with us, and India too was full of the riches of her own precious heritage . . . We gave her, what she needed most, the most precious of gifts from Islam's treasury, the message of democracy and human equality.

This assumption of separate communities as the fundamental building blocks of Indian society is equally evident in the language

of Gandhi and even of Nehru. It continues in Pakistan, not surprisingly. It continues unquestioned, despite a constitution based on universal individualism, in what might be called the official discourse of the government of India. Considerable recent scholarship has problematized this narrative, locating its origin in British histories and practice, and demonstrating the anachronism of reified religious communities in the pre-colonial period.

The Tablighi Jama'at ideology is in this regard strikingly distinctive because it puts no gloss on the history of India at all, rather steeping its participants in historical examples drawn from the earliest days of Islam. The emphasis is less on history in the sense of tracing change over time than in historical exemplar, the lives of the Prophet and his companions as models in behaviour and morality for Muslims living today. This is mythic history in which there are overlays, replications, of the past. Thus Tablighis tell the story of their efforts for the 'internal conversion' (to use Geertz's term) of Mewat as nothing less than that of the conversion of the Arab Bedouins from the ignorance of the preIslamic period toward the truth of Islam, for example, in writings of Maulana Maududi (who initially admired the Tablighi Jama'at) in his description of the Mewatis with their ignorance of prayer, idols, and tufts of hair. Little matter that later Mewatis have countered with a history of Islamic learning and spirituality in their area or that sociologists have offered a much later timetable for change.

A variation of the shared linear history dwells on imagined places outside India. Faisal Devji, for example, has described the new *marsiya* of the nineteenth century, the mourning elegies of the Shi'a, which develop a presentation of unfolding dramatic scenes, depicting the moral drama of Karbala as a story of a people's political loss. Later in the century, novelists like Sharar turned to historical novels, nostalgically recreating past settings of Muslim worldly glory. Similarly, the poet Muhammad Iqbal, returning home from one of the Round Table Conferences, stopped at the mosque of Cordoba and wrote one of his greatest poems, a meditation on the flow of time, interrupted, as it was there, by creative genius, now lost. These writings 'straddle' the imagination of a linear narrative of India and the imagination of a recurrent mythological moment of Islam. Yet, I would suggest, they are fundamentally about the British and about the experience of loss, even though that transition is played out in a non-Indian setting.

It is tempting to write the historical imaginings set outside the subcontinent into a teleology that culminates in Pakistan. But they are not fundamentally about geopolitics; they are not irredentist statements. They are in the end about the colonial predicament. Gandhi could embrace the Khilafat cause not only out of expediency but because imagining Istanbul as a site of British perfidy was another way of imagining India.

These various histories, the secular, the communal, and the pan-Islamic, thus share fundamental characteristics as nationalist and territorial. Both before and after Partition, the single story, with its competing variants, has dominated public debate. Histories like that of the Tablighis have operated in a different sphere. The Tablighi Jama'at itself, a minor movement until the post-independence periods, in India in particular, has simply been assimilated to evidence of Muslim difference.

In retrospect, however, it is useful to show that there were and are alternatives to the pervasive framework of history and nation that is taken as natural, among them identity constituted without reference to territory, as in Tablighi Jama'at. Even here, however, the Tablighi Jama'at typological history takes as a given the shared question of all twentieth century Muslim leaders: what is the cause of Muslim degeneracy and its cure? The answer from the Tablighi Jama'at was not that of the Muslim 'leaders' concerned with negotiating representation in electorates, councils, education, and so forth. Yet their historical imaginings too, even though the issue is often represented by silence, were responses to the colonial situation and thus part of a shared modernity. The Tablighi Jama'at is not an anachronistic fossil; it, with other Islamic movements, is grounded in the context of Indian nationalism and modernity.

Islam, Identity, and Nationalism

British nationalism and identity are inextricably linked to the encounter with what are considered non-British lands and ways of living. Britain is a 'green and pleasant land' only because there are jungles and wilderness out there; Britain is enlightened and modern only because other societies are constructed as benighted and like Britain's own past. As in Britain itself, however, Indian nationalism has its own internal foils for identity, among them in some contexts Muslims, including the kind of Muslims represented by the Tablighi Jama'at.

Muslims are, in this imagination, the limiting case of 'religion'. Religions, Nehru writes, have 'tried to imprison truth in set forms

and dogmas. . . discouraged [man] from trying to understand not only the unknown but what might come in the way of social effort . . . . As knowledge advances, the domain of religion. . . shrinks.' He continues that India must lessen its 'religiosity' and turn to science, himself implicitly accepting the Orientalist stereotype of India as a place dominated by outdated modes of thinking, hence religion.

> The rules and regulations of the kitchen dominate [the Hindu's] social life. The Moslem is fortunately free from these inhibitions, but he has his own narrow codes and ceremonials, a routine, which he rigorously follows, forgetting the lesson of brotherhood, which his religion taught him. *His view of life is perhaps even more limited and sterile than the Hindu view.*

Such a perspective ignores the relationship between nationalism itself and many dimensions of religion and religious movements in the twentieth century as products of the same historical forces, and implicitly reveals an intimate relationship in which the modernity of nationalism is defined by the presumed archaism of religion. This angle on Muslims was reinforced by the perception of nationalist leaders, like Nehru, that the Muslim leadership, above all the leadership of the Muslim League, represented the 'feudal' landlords who would stand in the way of centralization and socialism in the independent state.

The Muslim League leadership of course insisted equally on the distinctiveness and community identity of Muslims, but with a striking difference. Jinnah argued in his well-known presidential address of 1940 that Islam was *not* a religion, perhaps his own gesture, stemming from the cosmopolitanism and isolation from mainstream religious practice he shared with Nehru, toward self-presentation as 'modern'. Thus the Muslims were a nation, not a religion.

> The problem of India is not of an inter-communal character but manifestly of an international one, and it must be treated as such... the only course open to us all is to allow the major nations separate homelands by dividing India into 'autonomous national states'. It is extremely difficult to appreciate why our Hindu friends fail to understand the real nature of Islam and Hinduism. They are not religions in the strict sense of the word.

Despite Jinnah's efforts, the distinctiveness of Muslims was in fact construed internally as well as externally as religion, and the role

of key spiritual leaders in areas of Sind and the Punjab was critical to Muslim League success.

There is thus a long genealogy for the current Hindu nationalism of the Bharatiya Janata Party in insisting that they are not a religious movement but a cultural movement; to be 'religious' is to be medieval. 'Islam', as they conceive it, is what they are not. Even Nehru, despite his subtle and informed analysis of historical parallels and background, gave 'purdah' importance 'among the causes of India's decay in recent centuries'—and linked it to the presence of Muslims. Just as for the British the presumed Indian male treatment of women was a central legitimating argument for their rule, so among Hindu nationalists, as debates over the Shah Banu decision and subsequent legislation in 1986 attest, the status of Muslim women is used to bolster their cultural superiority. The displacement of gender issues onto a presumed retrograde Other deflects attention from fundamental issues related to women and simultaneously suggests a contrast between oneself as enlightened and the Other as backward.

Equally critical in this economy of meaning has been the definition of the Muslim as the one irreducibly inassimilable group marked precisely by religion as the essentialist base of all difference. Nehru, again the more interesting for his own cosmopolitanism and subtlety, can only introduce the subject of Muslim dynasties in the subcontinent by entitling that section of his book 'New Problems'. The focus on Muslims in twentieth century India has helped obscure social differences, starting in the 1930s debates on untouchables and continuing in the escalation of the anti-Muslim movement to destroy the mosque at Ayodhya precisely when, in 1990, opposition to the Mandal Report (expanding entitlements for the 'backward') got out of hand. Especially with the creation of Pakistan and the political reality of separate nations, it could be seen—not always or in all contexts but clearly so in the early 1990s—as 'legitimate' to denounce Muslim difference, thus directing attention away from the legally illegitimate but pervasive differences of hierarchy based on birth.

Muslim Identity before Partition

This sketch thus far suggests at least three arguments concerning modernity, nationalism, and identity, particularly in relation to Muslims.

1. The decades preceding Partition were a remarkably active and transformative period for religious life, above all in terms of

institutional change and the spread of normative practices. Although I have illustrated this process with one Islamic movement, the same kind of process was widely evident. The Tablighi Jama'at illustrates a characteristic transition to lay participation and leadership and a diffusion of normative practices.

The social context that gave rise to such movements is, broadly speaking, the same as that which gave rise to nationalism. Central are the sense of decline and the perceived need for change on one hand and the stimuli of travel and communication on the other. Mines's work on south Indian villagers exemplifies this transition: villagers, indistinguishable as Muslims at home, dress, eat, and identify as Muslims when they go to the city, thus securing a basis for community in a context of physical dislocation.

By stressing movements like this as a kind of social reform, and with the allusion to Mines who grounds the evolution of such new organizations in a functionalist interpretation, I write the Tablighi Jama'at into a narrative of social change. I do this in part to problematize the place of religion as foil in narratives of modernity and nationalism. But my narrative is partial, and meaningless to the participants who would prefer, of course, to see themselves as representing what is timeless and free of social contexts.

2. While many of the *anjuman* and associations like the Tablighi Jama'at conceived of themselves as apolitical, they by their very existence represent political positions. They are often written into the ever present and conceptually 'natural' narrative of nationalism: a kind of cultural 'pre-nationalism' awaiting fulfilment as a Muslim nation or interest group. This is, indeed, how they often are viewed in contemporary India. Politically active or not, the Tablighi Jama'at in India has made Muslims into a more visible and culturally distinct 'ethnicity'. At the least, moreover, a movement like the Tablighi Jama'at delegitimizes nationalist claims that the nation is a natural and inalienable part of identity. Tablighis are widely criticized in contemporary Pakistan for not helping 'build' the nation, even while political leaders in recent years praise their Islamic commitments. Tablighi Jama'at activities may, in fact, in India or Pakistan, be facilitated by political parties or government officials who see its apolitical stance as something to be encouraged. In India, Congress supporters identify Tablighi Jama'at with the politically active Deobandi 'ulama allied with them.

Tablighis' implicit counternarrative to nationalism, above all its marked a-territorialism, has taken on new salience with the Muslim diaspora in North America and Europe. Indeed many of the spatial imaginings of Muslims—of Karbala, of Cordoba, of Mecca and Medina, even of Istanbul—are significant not because they suggest an extraterritorial identity, as nationalism would require—but because they suggest an identity spatially located nowhere. With today's transnationalism and movement, it is easier to see this pervasive impulse in twentieth century Muslim thought as potentiality rather than as failure.

Such a-territorialism was also an element, as noted above, following the work of Peter Hardy, in the participation of 'ulama ir the Indian nationalist movement. No spokesman was more articulate on this than Maulana Husain Ahmad Madani, who engaged with Iqbal and others, in pamphlets and letters, on the subject of common nationalism *(muttahidah qaumiyyat)* as distinct from *millat*: the latter he identified as a community based on shared textual tradition, the former on shared residence. Thus the *hindustani qaum*, he argued, bore no reference to religion. He made this latter judgment, he explained on one occasion, on the pragmatic basis of having lived abroad for sixteen years and knowing how the designation was used in the world at large—a reminder that his position came from someone cosmopolitan and well travelled. For him the term *qaum*, far from having religious implications, could be applied either to descent or behaviour; and he listed a variety of uses for the term: language, region (*'arab, 'ajam* [non-Arab; Irani], nation (*irani, misri* [Egyptian], descent (*sayyid, shaikh, mochi* [shoemaker], colour (*gora* [white], *kala* [black], even occupation/lifestyle (*sufiyoon ki qaum* [Sufis], *dunyadaroon ki qaum*, [worldly people]. *Qaum*, the nation, was based on territory, *watn*, but since the central issues of everyday concern were to be handled by constituent groups, the *qaum* was little more than an empty space free of intrusive imperial rule.

Madani's impulse mitigates against such concerns as competition for entitlements in voting and employment since the regulation of the *millat* is ultimately internal. Its orientation to imagined spaces beyond geopolitics extends to withdrawal from competition over local place, like Ayodhya, in a later era, as well. In its expression in the Tablighi Jama'at movement, this a-territorialism is as widespread, and as detached from the state, in the so-called Islamic Republic of Pakistan as it is in the secular

state of India. Can one write a narrative that makes Tablighi Jama'at postmodern, transnational, before its time?

3. Current revisionist scholarship on Partition emphasizes far more ambivalence on the part of the Congress leadership in favour of Partition than the nationalist myths of either India or Pakistan allow. Muslims, Asim Roy argues, were taken to be an obstacle to all, a leader like Nehru wished to build in terms of a secular, socialist state, so that separating off a large share of their population and leadership had certain advantages. Muslims and Islam have continued their role in the non-Muslim political imagination in India, not least in the ideology of Hindu nationalist movements like the Rashtriya Swayamsevak Sangh (RSS). One tantalizing probe into the complexity of the place of Muslims in the nationalist imagination—most intimate of relationships—is Roy's study of the film superstar Nargis, whose '(absent, ephemeral, discreet) Muslimness' is intrinsically linked to her classic role in *Mother India*: 'If Mother India is, at least partially, an allegory of the repudiation of Muslim difference, and of becoming a Hindu, then only a Muslim can assume the iconic position of that maternal figure'. The image of a Muslim as Mother India can serve as metaphor for the way Muslim movements have been part of the same modern transitions as other social and political movements in this century, at once integral yet a foil.

7

Too Little and Too Much

Reflections on Muslims in the History of India

I want to begin this evening by recalling my immediate predecessor as AAS president from the South Asian field, Barbara Stoler Miller, whose untimely death in 1992 took from us a distinguished Sanskritist, a gifted teacher, and a generous colleague whose absence we mourn. In my address I continue themes taken up by Barbara Miller four years ago as well as by Stanley Tambiah, as president from the Southeast Asian field, the year before. Then, as now, scholars across the disciplines—whether, like Barbara Miller, a scholar of classical texts; or like Stanley Tambiah, an anthropologist; or myself, a historian of British India—have struggled to understand the religious nationalism of South Asia, one of whose most tragic outcomes has been an accelerating violence against the Muslim minority.

A striking characteristic of recent public life in India has been an intensified use of historical narratives to define the nature of India's people and draw the boundaries of citizenship. A few years back, these histories began swirling around an obscure mosque in Ayodhya, built in 1528. The mosque was physically destroyed in late 1992 by organized Hindu activists, men and women, who tore down the mosque stone by stone. These activists

argued that the mosque builders had themselves destroyed an ancient temple, built on the very site of the birthplace of Lord Ram, a god whose drama of exile and perfect kingship, always well-known, had swept India in a televised serial a few years earlier. They insisted that they could not await the decisions of an ordinary court to adjudicate rights to the land: their claim transcended mundane legality. Terrible conflict followed the destruction of the mosque. Most of the victims were Muslims.

The version of history implicit in the destruction of the mosque was one deeply engrained in its basic outline in what we call 'common sense', current not only in India but outside: There was once a Hindu Golden Age; Muslims came as foreign invaders; Muslims were oppressors who ultimately ushered in a period of decline. Versions of this narrative had been current in the independence movement and had justified, for some, the separate state of Pakistan. This history had, moreover, long been a subject of contestation in independent India, as historians like Romila Thapar from the late 1960s on had struggled to make explicit the implications of such narratives for India's public life. What has been new in the past decade has been the revival of this narrative as sanction for an explicit programme of public action, a revival that inter alia called for mosques, especially when presumed to have been built on the sites of earlier temples, to be removed and for Muslims to assimilate—in some sense—or leave. Arguments from history have been taken to transcend other sources of morality and even institutions as basic to civil life as courts.

Historians in India have recently renewed debates about the political implications of their scholarly practice for public life. A new issue has been raised by the work of historians, including some among the so-called 'Subalternists', who have chosen not to work within the old nationalist narrative but to reject the great teleological 'metanarratives', including the nationalist narrative, completely. Critics of this radical approach, in turn, have asked if such work, by destabilizing the conventional narrative, has not opened the field precisely for Hindu nationalists to utilize history for their own 'supremacist' ends. Would it not be better to revitalize a liberal nationalist past? Such issues have engaged politicians, put members of the Indian History Congress on the cover of the Indian equivalent of *Time* or *Newsweek (India Today)*, and stimulated discussion among diaspora Indians, many of whom have embraced what seems an authentic historical heritage as part of their Hindu identity.

Those of us who study India outside India must also recognize the extent to which our scholarly work has typically reinforced the fundamental assumptions and parameters within which the old nationalist and 'the new Hindu history', alike, operate. It is primarily to us in the American academy that I direct my comments this evening and thus call attention to the politics of knowledge entailed by our own conduct of scholarship. This knowledge is as much a part of American public life as it is of Indian public life, defining by presumed contrast who 'we' are, and, in parallel cases like Bosnia, shaping our responses to international affairs.

Colonial and Nationalist Narratives

Two major scholarly projects have begun to wrench us from the problematic received narrative of Indian history. The first, and more complete, has been to recognize, in India as everywhere, the extent to which the writing of history since the nineteenth century has been intimately tied to the project of the nation-state. Today's public narrative, we now realize, while new in its emphases and its use, has roots that can be clearly identified as part of colonial practice that forged a powerful outline of the history of India, a history that simultaneously contributed to the construction of Britain's own history of itself.

In that colonial history, India was already a bounded entity inhabited by two religiously defined communities. And in that India, British historians imagined Hindus as the original inhabitants and Muslims rather as they, the British, imagined themselves: as foreign rulers, as imperial rulers, who arrived as successful conquerors. Muslims served as a foil against which the British defined themselves: by saying that Muslims were oppressive, incompetent, lascivious, and given to self-indulgence, the colonial British could define precisely what they imagined themselves to be, namely, enlightened, competent, disciplined, and judicious. At the same time, they imputed to Muslims certain qualities they admired, like qualities of masculinity and vigour, in contrast to the allegedly effeminate Hindus. Such stereotypes shaped policy and legitimated British presence to themselves, and, for a considerable period of time, to many of those they ruled as well.

This was not done subtly. The long standard translations of the Persian histories of the pre-colonial period, *The History of India as Told by its own Historians*, some eight volumes published in the decade from 1867 to 1877, invited the reader to selections purporting to show the 'intolerance' of the Muhammadans, a

story 'of idols mutilated, temples razed, of forcible conversions and marriages, of proscriptions and confiscations, of murders and massacres, and of the sensuality and drunkenness of the tyrants who enjoined them'. Lest the point be missed, Elliott, one of the editors, added, '[The translations] will make our native subjects more sensible of the immense advantages accruing to them under the mildness and equity of our rule.' Little wonder that British records, often produced through such lenses, as Gyan Pandey has shown, cannot be taken as a guide to contemporaneous events labelled 'Hindu-Muslim riots', let alone, following Richard Davis's work on Somnath, as an accurate record of events of earlier centuries.

But why did this colonial narrative in its basic outline take hold? In part the explanation rests in a range of colonial practices in British India that systematically institutionalized a nation of communities, above all what were deemed the two great communities of Hindu and Muslim. These practices, embedded in what Peter Hardy has called the very 'idiom' of British rule, included the measurement common to the modern state, including the census and ethnographic surveys, highlighting religion as they did not do in Britain itself. This arithmetic in turn provided grounds for claims to education, employment quotas in the army and in government services, and electoral reservations. How could leaders of the presumed communities not project their existence into the past as they competed among themselves and with each other?

Many Indian nationalist leaders found it useful, specifically, to accept the notion of an Indian Golden Age that ended with the presumed oppression of Muslim rule. This explained the British takeover and the need for regeneration. Such a story enhanced cultural self-pride since there had been, after all, a Golden Age, and its existence offered hope for the future. Like the colonialist history, it revolved around self-conscious communities of 'Hindus' and 'Muslims' as 'the master cleavage', in Susanne Rudoph's term, at the heart of contemporary history and politics. Whether 'secular' or 'communalist', these histories have etched ever deeper the essentialism of an India composed of two eternal groups. Historians of the nationalist movement, moreover, have identified mainstream Indian nationalism as having increasingly espoused cultural Hinduism as a source for common symbols of unity and a way to broaden the base of support beyond the English educated elite.

There are both scholarly grounds and political incentives to insist on the 'construction' of contemporary identities and thus to challenge their claim to being natural and primordial. Nation, caste, language, and above all religion, are, in their politicized and enumerated form, contingent and recent. Indeed, it is the excavation of the contingent nature of such identities as much as anything that distinguishes recent scholarly work from the positions often taken by the older histories or by lay people, whether politicians or journalists or expatriate engineers propounding their version of history in newsgroups on the Internet.

Although substantial and sophisticated scholarship in recent years has shown that the conventional historiography of India is deeply implicated in the political context of British India, the categories and the narratives of that historiography still serve as the implicit framework not only of history but of the humanities and social sciences generally as they deal with India. We teach courses on 'civilization'; we assume that there are enduring continuities to being 'Hindu' or 'Muslim'; we attribute explanatory value to these essences in historical settings; and we extrapolate from them to bounded sociological categories. Even Peter van der Veer, writing on contemporary religious nationalism, admits, despite his intention to avoid 'reifying' the object of his discussion, 'I am certain that parts of this book will have fallen prey to the very essentializations my argument attempts to problematize'.

But most writing evinces no such self-consciousness. Samuel Huntington's much discussed article published two years ago, summed up by its title 'The Coming Clash of Civilizations?' seemed plausible to most people as it predicted a greater awareness of difference, and hence conflict, among contending bounded and coherent civilizations, like 'Islam' and 'Hinduism'. On 'Islam', V. S. Naipaul's *Among the Believers* (1981) discovered precisely what he set out to find. It is these often implicit assumptions in relation to Islam I describe in my title as 'too little and too much'.

One cardinal assumption of the civilizational approach to culture and society is its focus, as Edward Said, above all, has made clear, on pristine texts and presumed 'authenticity'. In the case of the history and culture of Muslims of South Asia, or indeed of Asia generally, that has been an element conducive to scholarly neglect. To be sure, the issue of 'too little' is one, which perhaps everyone identifies: Asian topics in general are in fact not given the attention, which is their due. I think everyone moreover has at

least one graduate school story, often in the mode of the misguided obduracy of the older generation ultimately proven wrong by the younger (at least in the younger's opinion). My story is relevant to the amount of attention given to my subject. Early on I was asked by a senior professor what I planned to specialize in, and I answered that I intended to work on Indian Muslims. His reply-no doubt intended for my welfare—was a splutter: 'Muslims! Why they are no more than 5 percent of the population and they simply do not matter.' I remember the percentage because it was so wrong, but the point was not really the number. The point was the assumption that 'civilization' and 'high culture' mattered, and that to study Muslims outside their area of origin in the Middle East was irrelevant. One sought to study the 'authentic', the 'pure', the 'textual'. This tradition of scholarship; in short, fit India's Muslims. perfectly into the narrative of 'foreignness' and 'inauthenticity' outlined above.

But 'too little' can have a second, although related, interpretation. Too often the history of Muslims is reduced to Islam in the sense of taken-for-granted assumptions in which words like 'monolithic', 'militaristic', 'simple', 'fanatic', 'egalitarian' resound. This textually based, narrowly defined Islam 'too little' to describe the complex and varied practices and loyalties of actual Muslims, yet 'Islam' is made into the single most important causal variable for whatever Muslims do. 'Too little' in this interpretation becomes 'too much'.

In colonial history, 'religion' in general is taken as central to defining the fundamental properties of non-European cultures-societies that are backward, irrational, and medieval. By the nineteenth century, the West is meant to be beyond religion in public life: religion is, in these formulations, limited to spiritual matters, to private life, ultimately to something like a lifestyle or hobby; only the marginal or the reactionary would bring religion into public life. In nineteenth century Europe, moreover, 'the economy', 'the society', and 'public opinion' are taken as major forces in history, with 'religion' only one force among many. In a place like India, by contrast, 'religion' is typically taken as the central or the only force. The societies understood to be dominated by religion become, in this account, like the West in an earlier period. The British histories of India, in keeping with this theory, identified three periods of Indian history: the Hindu, the Muslim, and a third not defined by religion at all, the British. Despite

critiques of this periodization and approach, a great deal of what is taught on South Asia even today focuses on 'religion', especially as embedded in texts as the defining marker of 'civilization'. This essential religiosity then becomes the speciously plausible explanation for religious politics and ethnicity in the contemporary world, instincts, as it were, that well up without the guiding control of Western or, in Central Asia, Russian colonialism.

Alternatives

Historians of the colonial period have, thus, shown definitively the limitations and political implications of the history forged in the context of colonialism and nationalism. What then can take its place? The second scholarly approach I alluded to above seeks precisely to offer new approaches to the medieval and early modern period, implicitly offering an alternative to 'religion' or 'Islam' as the pre-eminent explanatory variable in such areas as policy, social allegiance, and creative expression—the use of Islam I have called 'too little' and 'too much'. The following examples are meant to be suggestive of the kind of work being done—and needing to be done.

First, we need to understand better the organization and ideology of Muslim politics, especially given the presumed truism that there is no difference between religion and politics in Islam. What could that possibly mean? The fact that actual Muslims have lived under every conceivable form of polity suggests the limitations of that claim. Stephen Humphreys' well-chosen word to describe the common relationship between Muslim political leaders and religion is *indifference*. In most Muslim ruled polities throughout most of history, the nature of ritual practice, codes of law, spiritual orientation, or whatever has been irrelevant to the state. The religious leadership has lent legitimacy to those polities that maintain a framework of institutions within which Muslims can lead their religious life; they expect patronage to mosques, schools, and shrines but not control of what goes on. But non-Muslim populations expect patronage to their institutions as well.

Use of a term like 'tolerance' or 'secularism' to describe this arrangement on the part of any ruler, Muslim or not, is anachronistic: there were always preferences and hierarchies. But there were assuredly not, in the normal course of events, attempts by Muslim kings and sultans to legislate theology or enforce some 'orthodoxy'. Claims of deviance were levelled at opponents at

times of political conflict, while celebrations of ritual and moral conformity were offered as praise, but that is a far cry from any notion of 'an Islamic state'. And rhetoric of heroic feats against the infidels may be no more than a form of panegyric to communicate that a king should be thought of as good.

Indeed, far from kingship or any other political structure being intrinsic to Islam, a theorist like the fourteenth century Delhi-based Barani argued that the sultan put his soul at risk precisely because kingship, in this case, required what was un-Islamic-attitudes like arrogance, for example, and the compromises of political life. 'The Islamic State', let alone the resources to impose it, is typically a variant of nationalism and hence a profoundly modern idea.

Loyalty, not a distinctive Islamic ideology, held the state together. Under the Mughals, a Hindu Rajput who was loyal was praised; a Muslim who was disloyal was subject to jihad. The Mughals initial conquest in the subcontinent was of other Muslims. Loyalty was a Muslim virtue, but it was also a Rajput virtue. Conversion was not required to be part of the Muslim state. 'Islam' does not provide a blueprint for organizing a state; it does not by itself explain political action; it does not predict participation or enmity in relation to the state.

These issues signal the need for precision in calling anything 'Islamic'. We need always to ask what is meant when that term is deployed. Often an institution or practice is indeed regarded by participants as 'Muslim' or 'Islamic', but is nonetheless not specific to Muslims. The case of 'loyalty' as an attitude was just noted. The institutions of the Mughal state were bolstered by an Islamic ideology but were in their basic structures similar to those of early modern agrarian empires in China and elsewhere. A wide range of techniques, crops, and objects in general are often called 'Islamic' simply because they are associated with populations that are predominantly Muslim, but such a use implicitly evokes essentialized religion. In each of these cases, alternative adjectives, and hence categories, would stimulate more contextual, more historical analysis than the overused modifier 'Islamic'.

A second thicket in pre-colonial history is social identity and the deep dead end tracks carved through it by the categories 'Hindu' and 'Muslim'. These are hard routes to avoid; but some recent scholarship is suggestive in showing the significance of ethnicity, rather than religion per se, as a category; the presence

of a multiplicity—not a binary opposition—of competing groups; and, in general, the varied shifts and contingencies of alliances among elites.

In the kingdom of Vijayanagara, texts of the fourteenth to sixteenth centuries as Philip Wagoner has shown, do not use the term 'Muslim' at all but rather 'Turk', *turushka*, an ethnic group whose religion is only one of its many characteristics. Turks, Telugu Brahmins, and others, as he puts it, moreover, 'interact in the same social space'. Making a similar argument from Telugu inscriptions, Cynthia Talbot found the Turks identified by such terms as *ashwapati*, the lords of the horses, one of multiple—not binary—competing groups, like the 'lords of the elephants' in Orissa, or the Telugu warriors themselves, 'lords of men'.

Talbot also found, however, that in the period of initial conquest, the Turks were described as *mleccha*, a term often translated as 'foreigner' but in fact also used for hill dwellers or indigenous 'tribes', and as *yavana* ('Ionian'), used since the time of Alexander the Great for those who came from the north-west. These texts described the Turks as creators of chaos who overturned images, destroyed temples, and slaughtered Brahmins, exactly, Talbot argues, as do texts that describe any truimph of the 'lower orders' over Brahmins. Overturning or capturing temple deities was common to all conquerors since temples were so clearly part of claims to sovereignty. Muslims were, in short, assimilated to known categories; they were not the unique foreign category some later ideologies made them out to be.

Vijayanagar's neighbouring and rival state of Bijapur, whose Adil Shahi rulers had strong Persian connections, mirrored Vijayanagar in its political organization and ethos, even sharing a name, 'Bijapur'; that like 'Vijayanagar' meant 'city of victory'. Wagoner has identified inscriptions that show Turks serving Vijayanagar and Brahmins serving Bijapur. In these texts, dated over many decades, institutions of whatever provenance appear to be understood as equivalent. Thus, a mosque inscription in Vijayanagar calls the building a *dharmsala*, a charitable rest house, since a mosque would have been a place of rest for travellers; the merit for building it is assigned to the non-Muslim overlord, the Shaivite king.

To be sure, being Muslim mattered in a wide range of ways, fostering networks among different kinds of elites and shaping many aspects of daily personal life. But loyalties were often highly

specific. Scholars often emphasize that what we call 'Hinduism' historically had no single organization or doctrine; and, anthropologically, until the twentieth century, the same statement could be made about Muslims, given the affiliations that have existed around Sufi saints or shrines, sectarian groups, law schools, or lineages. As Peter Hardy wrote over twenty years ago, although the British may have thought of Muslims, in the words of Lord Dufferin in 1888, as a nation characterized by 'monotheism. . . iconoclastic fanaticism. . . animal sacrifices . . . social equality and. . . remembrance of the days when, enthroned at Delhi, they reigned supreme', this image, Hardy insists, 'would have startled the Muslims of (the) earlier, pre-British period'. Those Muslims spoke a variety of languages, excluded the humble from their mosques, and many often owed their primary loyalty to devotional cults at shrines and temples. Muslims were, as Hardy puts it, scarcely 'more monotheistic than their non-Muslim neighbours':

Two key dimensions of these identities distinguish them sharply from those that have emerged in recent times. One was that they were primarily local, even face to face. Thus, in the book honoured today with the Ananda Coomaraswamy Prize, Richard Eaton dramatically shifts our image of 'conversion', the very word so laden with our Pauline notions of individualism, doctrine, and instantaneous and total change, that the term itself perhaps needs to be dropped. In Bengal and the Punjab, what we call conversion is above all allegiance to Sufi intermediaries. In these settings, Sufi elders often served as agents of agrarian change, entrusted with rights to land as they oversaw its being brought under settled agriculture. They served as intermediaries to regional and central political authorities, mediating between recently sedentarized communities and large scale polities. Similar processes took place in areas of non-Muslim rule with Brahminic caste leaders and, later, under colonial rule with Christian missionaries as intermediaries. In the Bengal case, a closer identification with Islamic symbols did in fact eventually emerge, but that was very gradual and in fact most marked only in the colonial period.

Neither the pull of presumed egalitarianism nor the push of 'the sword'—the usual stereotypical explanations of conversion to Islam in South Asia—produced the new networks of patronage and loyalty, perhaps devotion, that we speak of as 'conversion'. Indeed, a Muslim allegiance was not dramatically visible. As is well known, only with the first British census in 1871 did anyone

discover that the majority of the Bengali population was Muslim: up until then numbers did not matter, the concept of 'majority' meant nothing, and no value was placed on those of some shared identity over a large area acting in concert.

A third vexed area in discussion of the pre-colonial period is that of so-called cultural 'syncretism', a term used to describe religious styles and art, for example. The term implies that the categories 'Hindu' and 'Muslim' are fixed, a notion already argued as problematic, and that bits of both in some sense mix. It encourages what one might call the 'vertical fallacy', that it is possible to make lists, even contrasting lists of what is 'Hindu' in one column and 'Muslim' in another. It also tends to call 'Hindu' or 'Muslim' elements in the culture that may be neither or both.

Thus, Catherine Asher has argued that architectural styles, labelled as Hindu or Muslim in the colonial period, in fact initially participated in a shared 'taste' with no archaeology of origin ascribed. Or, put differently, the significance was typically not linked to religion in any narrow or exclusive sense. Thus, to use the Vijayanagar example again, a ruler who patronized Shaivite deities also built public buildings with domes and arches, in the style of the northern Muslim rulers, and, even more intriguingly, dressed in public settings as a 'sultan', all this to participate in what was less 'Islamic', than a shared discourse of rulership.

If there is a 'vertical fallacy' associated with 'syncretism', we might also posit a 'horizontal fallacy', following Peter Brown's identification of the post-enlightenment 'two tier' theory of religion. In this theory, rational monotheism is a higher form of religion and therefore maps onto the upper classes and the educated; superstition and 'syncretism' represent more primitive religion and are presumed characteristic of the humble. By this reckoning, the upper classes are 'good Muslims'; the rural and uneducated Muslims, more immersed in local cultures, are taken as deviant. If Islam is considered foreign, the lower orders are, therefore, 'more Indian'.

Indeed, when I mentioned to colleagues at last year's meeting that I was to pick the cover design for this year's annual meeting programme, I was advised to turn to folk art—in a sense to choose something not 'too Islamic'—or to hedge the problem by using an object from the Indus Valley civilization. I was intrigued by this advice but I decided simply to search my memory for something visual I had seen and loved.

I chose Miskin's late sixteenth century Noah's Ark, certainly an example of 'high', not 'folk', culture. Yet this painting at once represents a central Islamic symbol and a work specific to this geographic region. It could not have been done anywhere else but the Mughal court. This is so even though it is impossible to extricate any element and label it 'Hindu'. What is Indic is not limited to folk art. The Mughal paintings have a vitality, an individualizing of animals and humans, a use of colour and in some cases perspective, that set them apart from the Persian miniature tradition from which they derive. (Welch 1978, 56-7; Okada 1992, 125-36; Beach 1981, 124).

Miskin's painting spills over with animal and human energy in a continuum from the water to the ark to the air. In this perfectly balanced composition, aloof from the teeming decks and man overboard around him, sits the Prophet Noah at the centre, transcendently intent on his companion, who holds some holy book. It is perhaps not too fanciful to recall Shiva Nataraj with his perfect balance and tranquillity within a circle of moving flame. Thus a central, normative symbol of Islam, the prophet, takes on new meaning in a new cultural world. The powerful image of the prophet is profoundly enriched in the Indic context by some combination of assimilation and resistance that takes shape in creative expressions like these.

But the story is more complex: the painter is not a Muslim but Miskin, son of Mahesh, and we can only guess at the content of the multiple meanings a painting like this would have had for the many different audiences it delighted in Akbar's court. Not least, Noah is visually an emblem of the king, recalling countless compositions of the haloed ruler seated with advisors, his smaller sons ranged at his side, the pivotal figure in relation not only to humans but to creatures generally. The king is bound to his subjects not by the shared 'identity' of the culturally homogeneous modern state but by ties of protection and obedience—just like Noah with his disparate elephants and cats. The painting thus turns out to be, in part, a subtle representation of the kind of early modern polity sketched out above.

But if one leaves aside architecture and art, what of texts where the labels 'Hindu' and 'Muslim' are actually used? Clearly these terms carry a wide variety of meanings of which one example may suggest the need for specific, contextual studies. Some thirty years ago Aziz Ahmad described a selection of texts he labelled

'epic and counter-epic', arguing that in them we find a genre divided down the middle: 'A Muslim epic of conquest, and a Hindu epic of resistance . . . planted in two different cultures; in two different languages; in two mutually exclusive religious, cultural and historical attitudes each confronting the other in aggressive hostility'. Before heaving a sigh of relief that we can go back to the simple story we all, so to speak, grew up with, let me call attention to two important recent studies, Richard Davis' of the construction of the Somnath legend and Aditya Behl's study of one of these texts, the *Padmavati*.

This text, written in Awadhi by a Muslim, Malik Muhammad Jayasi, in about 1540, purports to tell the story of the victory over Rajput Chitaur of the evil king Alauddin Khilji, who is driven by desire for the beautiful Padmavati. Ahmad concludes that Jayasi, located as he was some distance from the court, 'in all simplicity' must have accepted the Rajput legends and hoped 'to tell a good story which would appeal to his fellow-villagers, the large majority of whom were Hindus'. Any Muslim using the vernacular (even after centuries) and steeped in local symbols and stories, must, in short, have been a bumpkin—echoes of 'the horizontal fallacy' sketched out above.

And indeed Behl and Davis give us a very different picture. Jayasi's patron was a Hindu, but the dedication of the poem was to the sultan, Sher Shah Sur. The poem, far from simple, is a complex allegory shaped by Nath yogic and Sufi cosmology. The so-called 'epics and counter-epics', as Davis explains, are in fact rhetorically similar and appealed to an elite cosmopolitan audience constituted in part by patronizing, writing, and hearing texts like these. In this poem, the villain, to be sure, is the Muslim king, but 'Islam' conquers. In the poem's brilliant concluding pun, 'Chitaur becomes Islam': the town, Chitaur, is in ashes, but 'chita' (mind) and 'ura' (heart), consumed in the fire of love, reach the annihilation of the Sufis, whose doctrine Jayasi espoused. 'Islam' and 'Hinduism' are, then, not the binary at all but rather true Islam, in the person of the Rajput hero, and false Islam, in the person of the conqueror (helped by a Brahmin advisor and a Rajput assassin), who are all ignorant of the path of asceticism and love. This is a story of resistance to a Turk, a sultan who is an enemy of Islam/truth/the divine. It is not the Hindu-Muslim gap that expresses the void between the divine and the worldly, but the gap between those who seek the spirit/beauty and those

who merely conquer and conspire. This was perhaps a story to put Sher Shah Sur in his place—as the Chishti Sufis liked to do. But far more important, it was a story that profoundly enriched Sufi teachings by the utilization of local legends and histories, the deployment of new symbols to describe the quest for the beloved, and a new depth in understanding the ardours of the Sufi path through the sophisticated theories of yogic discipline available in the culture at large. In literature, as in architecture and art, new work, rooted in diverse social and political contexts, points us beyond the static dichotomies that have shaped historical narratives too long.

These brief comments on aspect of state, society, and art enlarge definitions of Islamic practice to include, for example, loyalty, temple patronage, courtly painting, and epics about Rajput heroes. At the same time, they show that Islam, especially when reduced to a narrow list of 'beliefs', cannot be used to explain everything. A stereotypical Islam offers us little guidance to understanding the nature of Muslim polities or the dynamics of their societies, including, perhaps surprisingly, even the process usually labelled 'conversion'.

Concluding Reflections

Why do these proposed correctives matter? The situation of Muslims in India today can be compared to the situation of African-Americans in the United States. This may seem preposterous: Muslims were once rulers, builders of the Taj Mahal; India is bordered by two states with primarily Muslim populations; India has had presidents of Muslim background. Yet Dipesh Chakrabarty, in part to de-exoticize India, has recently argued that the term 'communalism' to describe ethnic relations in India should in fact be replaced by 'racism'. Chakrabarty points to the everyday behaviour that in Europe or Australia would indicate racism, for example, informal unwillingness to sell property to Muslims—to which one could add references to Muslims as dirty or having too many children, or, as in the American south, the remnant left when the smart ones go north. No analogy is perfect: others have found anti-Semitism a useful parallel. One can also link Indian Muslims, Copts, Ahmadis, and Bahais who are labelled in their respective countries as the cosmopolitans, people of mixed loyalty with links to outsiders, secretly privileged and powerful, in short, the language once used of European Jews. In all these cases minorities are forced to play roles not of their own choosing, not

least that of foil against which the unity of others—Hindus, the nation—can be constituted, and injustices of class and wealth obscured. The history that identifies Indian Muslims as aliens, destroyers, and crypto-Pakistanis, with its profound moral and political implications for citizenship and entitlements, is critical in sustaining that role. It presumably cannot be successfully challenged until, as has happened only partially and very recently in the United States in relation to African-Americans, the social and political interests that sustain belief in fundamental difference are changed.

The professional historian may thus, for the moment, have little chance in offering correctives, the more so since the debate within India has been drawn between the 'authentic' on the one hand and the 'deracinated secularist' on the other. Indeed, some of the latter have evinced a grudging admiration for the 'postmodernism' of the Hindu nationalist response to the devastating critique of their claims about the presumed ancient temples of Ayodhya: that not facts but beliefs about what happened alone matter.

Ayodhya was, in fact, not the site of an ancient temple. A temple was almost certainly not destroyed to build the mosque: the first written reference to that claim comes not in the contemporaneous records where it might be expected but in a nineteenth century colonial gazetteer. Ironically, the inscriptions on the mosque spoke not of conquest and destruction but of Babar's *justice* as a building that reached the heavens and of the mosque as 'a resting place for angels'. Ironically as well, the town developed as a centre of devotion to Ram in the context of Muslim rule and with the patronage of Muslim rulers.

Muslims did destroy temples, even if not in this particular case; Hindu nationalists claim a right to destroy mosques in revenge. But note the difference of the latter claim. The Hindu activists speak for a nationalist ideology that denies diversity. The pre-colonial states, by contrast, incorporated diversity. The difference is summed up by the goal of destroying all mosques, to which end books have been published cataloguing hundreds of targets. Earlier, rulers used destruction in limited and strategic ways or—to use an Indic term—looted religious buildings for their wealth. The meaning of destroying a monument is no longer the same, and we need to counter a history that suggests that it is.

Histories will always be rewritten. One reason is the relatively straightforward one that new material will be unearthed—the scent of untapped source materials that makes historians salivate. But a second reason is that the world changes. History is ultimately a pragmatic science: in a wide variety of ways we write and read history precisely because at some level it is used to make sense of the past for the present.

In the nineteenth century it was useful for colonialists, and, later, nationalists, with their own emphases, to write a history of difference, a pragmatic benefit that continues for religious nationalists today. On the verge of the twenty-first century, in a world of increasing interdependence, others of us need a history of connections among disparate settings, of mobility across space, of analogous institutions that are not 'Western' or 'Eastern', of engagement with other geographic areas in our disciplines that belies Orientalist specificity. Such history is also, of course, produced in a political context. Even so, historians can insist that, in the end, some history is better than others. The postmodernist Hindu nationalist argument that only belief matters is, in this perspective, bad history.

Historians need to tell a new story about South Asian Muslims—for themselves and whoever can hear them. That history has been doubly marginalized by legacies of European Orientalism and Indian politics. More of us need, above all, to take Muslims into account—an end to the neglect I have tagged 'too little'—and all of us need to build a history that does not make 'Islam' prior—the stereotypical thinking I have called 'too much'. We need scholars who, unlike my generation, do not study Muslims alone. And, instead of creating difference, we need to draw boundaries around common human experiences and, above all, around common social and political structures, situating Muslims squarely within the complex world of opportunities and constraints, motivations, and tastes they shared with everyone else.

8

Islamic Roots of Religious Human Rights

Following an introduction of the terms of reference and thesis of this chapter on the Islamic foundations of religious human rights, my discussion will fall into three parts. First, I will offer an outline of the origins, nature, and development of Islamic law and theology, and their modern influence. The second section will focus on the nature and circumstances of discourse about rights and responsibilities in the Islamic world today. In that light, I will suggest in the third section a theory of Islamic foundations of religious human rights, as can be perceived in the modern context.

Introduction: The Imperative of Resolving a Paradox

Within the framework of this book as a whole, this chapter is supposed to discuss Islamic legal and theological foundations of religious human rights and responsibilities, and the influence of an Islamic discourse about rights in more recent Islamic legal life. As a matter of terminology, however, no distinction was made in the work of early Islamic scholars, or in the minds of their followers, between law and theology. Subject-matters ranging from legal, in the modern sense of the term, to that pertaining to belief and doctrine, ethics and morality, religious ritual practices, style of dress, hygiene, courtesy, and good manners, were all seen as

falling within the domain of *Shari'a,* the divinely ordained way of life. Accordingly, I will use the term Shari'a in the following discussion.

The phrase "religious human rights," as used in this chapter, refers to those rights which pertain to freedom of belief and conscience, including religious dissent, conformity or lack thereof, and tolerance, as *human rights.* That is to say, I am concerned with religious rights as conceived, articulated, and applied within a "human rights" paradigm, rather than within a particular religious or other frame of reference or legal system. The conception and implementation of religious rights as human rights is both necessary and paradoxical in that the two can neither be easily joined nor separated.

The connection is difficult to make, on the one hand, because of the inherent tension between the underlying premise of universality of human rights and the specificity of religious foundations for those rights. Since the universality of human rights means the validity and application of these rights of all human beings throughout the world, they must apply regardless of whether or not they are perceived to be founded in the religious beliefs of a given community. Universality of huamn rights is particularly challenged by religious activists, such as Islamist groups in several Islamic countries today, who claim that their religious belief requires the establishment of a "theocratic" state to enforce their vision of the sacred law. Yet, it is imperative to maintain the universality of human rights against such claims precisely because of the exclusive and abusive nature of a theocratic state, against believers and non-believers alike.

On the other hand, it is difficult to separate religion and human rights, because they both not only operate on the same moral plane of justification, but also overlap and interact in content. Both normative systems are premised on the same moral precepts of human relations, and while believers are moved to uphold human rights norms out of religious conviction, the protection of the right to hold and act on those convictions is integral to the fundamental concept of human rights. Since believers will always make the connection, whether positively or negatively, it is better for human rights advocates to acknowledge and respond to it rather than pretend that it does not exist.

Failure to resolve the apparent paradox between religion and human rights, I maintain, is detrimental from both perspectives.

Unless common ground can be found whereby people would uphold human rights as a matter of, or at least without violation to, their religious conviction, they would be expected to make a choice between the two "creeds." In that case, I argue, the cost to the community or person making such a choice is not only in the loss of some or all of the benefits of the abandoned creed, but also in relation to the value of the adopted or preferred one. If a community opts for upholding what it believes to be the precepts of its religion over a commitment to human rights norms, then the community and its members will lose from a religious as well as a human rights point of view. Opting for human rights over religious precepts, on the other hand, would entail loss from a human rights as well as a religious perspective.

Loss of the benefits of the abandoned creed may be obvious, but how does a choice between the two creeds diminish the value of the adopted one as well? In my view, a commitment to human rights enhances the quality of religious belief and the relevance and utility of its precepts to the lives of its adherents. By its very nature, and in order to influence effectively the moral convictions and daily behavior of those who subscribe to it, religious belief must be voluntarily adopted and maintained. Coerced belief is a contradiction in terms, and can only breed hypocrisy, social corruption, and political oppression.

Moreover, as can be seen from the history of every major religion, internal disagreement is essential for the rejuvenation of belief and rectification of practice among its adherents. The survival and renewal of every major religion was ensured by the convictions and insights of its dissidents as much as by the conformity of its orthodoxy. In the Islamic context, for example, every form of Sunni, Sufi (mythic), or Shi'a belief held by its adherents today as "orthodox" was, at some point in history, a dissident view which survived against the opposition of the "orthodoxy" of that time. By protecting the right to dissent within a religious community, human rights norms and mechanisms safeguard the prospects of spiritual growth of any religion and the practical utility of its precepts to the lives of its adherents.

Yet, as can also equally be seen from the history of every major religion, dissident religious views were always persecuted and repressed in the name of protecting the integrity of the faith, the community, and/or the moral well-being of others. While such concerns should be taken seriously because of their legitimate

importance to believers, they should never be allowed to contradict or undermine the facts of religious and political plurality, or diminish the commitment of the community to recognize and respect them in the shared public domain. The present reality and future prospects of religious and political plurality must be fully acknowledged and catered for as integral to, and essential for the legitimacy and integrity of, the faith and/or the community. Otherwise, claims of acting in the interest of protecting the integrity of the faith and community will be nothing more than a pretext for political and religious domination by certain elites or groups of believers.

From a human rights perspective, while a religious motivation to uphold human rights enhances the prospects of voluntary compliance and the emergence of the political will to enforce them, resistance to these rights form a religious point of view is extremely difficult to overcome. Muslim believers, for example, "cannot conceive of nor accept a system of rights which excludes religion. Religion for them suffuses every facet of life and no system of rights that ignores this fundamental axiom is worthy of adoption and enforcement." Religious experience is therefore not only an indispensable resource for enlisting the support for human rights among believers, especially in forging the rational linkage of rights to responsibilities as people experience them in their everyday life, but also a rich and valuable source of the content of those rights. Moreover, as noted earlier, these connections are being made by believers and must be acknowledged and responded to as such.

Thus, despite their difficult and paradoxical relationship, religion and human rights must not only be reconciled, but indeed support each other. This can and should be achieved, I believe, through efforts on both sides of the issue. Secular human rights advocates, on the one hand, must transcend an attitude of indifferent tolerance of religion to a moral recognition of religious faith and serious engagement of religious perspectives. Those who take religion seriously, on the other hand, must see human rights as integral to their belief or concern, rather than as a purely secular system to be accommodated. I see this chapter, and the book as a whole, as an effort to find such a common ground for mutual support.

In seeking to explore the prospects and problems of finding Islamic foundations for human rights, this chapter does not claim to offer a comprehensive discussion of the issues in relation to

every aspect of Islamic history or all parts of the Islamic world. It is simply not possible to capture the full richness and complexity of many centuries of the history of major and highly diverse parts of the world in a single work. Instead, my purpose here is to distill the most pertinent features of that history, and to draw on some of the experiences of Islamic communities, in order to develop a coherent theory of Islamic foundations of religious human rights.

As elaborated later, this theory is premised on two main principles. First, with respect to "internal" freedom of belief and dissent among Muslims, since identity and its normative system can only be meaningful and useful in historical context, Islamic identity and Shari'a must remain open to renegotiation and reconstruction by each community in its own particular circumstances. Given the fact that human agency is unavoidable in the interpretation and implementation of religious texts, every formulation of Islamic identity and articulation of Shari'a is necessarily a product of human reason and action. As such, no formulation or articulation should be allowed to monopolize religious authenticity and authority to the exclusion of others. Alternative formulations and articulations should be allowed to compete for acceptance by the community as the practical arbiter of Islamic authenticity. Freedom of belief and dissent must therefore be safeguarded among those who identify as Muslims in order to ensure the vitality and integrity of this process of renegotiation and reconstruction of religious identity and law.

Second, with respect to religious human rights of non-Muslims, modern circumstances of permanent religious and other pluralities of national and international political communities require equal respect for the religious human rights of all members of the community as the basis of the demand of Muslims themselves to those rights. Moreover, the recognition of the fact of plurality and its consequences is not only supported by scriptural Islamic sources, as noted earlier, but also sanctioned by the historical experience of Islamic communities.

Shari'a, Past and Present

I would not restrict a discussion of Islamic foundations of religious human rights to the basis of those rights, or lack thereof, under Shari'a. Other aspects of Islamic consciousness, such as perceptions and experiences of piety and spirituality, as well as socio-economic and political factors, are always integral to an understanding of Muslim beliefs and behavior. Indeed, I maintain

that the origins, nature, and context of the development of Shari'a was itself conditioned by the historical context of early Islamic societies of the Middle East. In due course, local context also strongly influenced the adoption and adaptation of Shari'a in other parts of the Islamic world.

By the same token, historical contexts are affecting, and will continue to affect, the understanding and implementation of Shari'a as part of the foundations of religious human rights in Islamic societies. Local context and socio-economic and political factors influenced the displacement of Shari'a during the colonial and early independence era in most Islamic countries, as well as its recent resurgence as a framework of discourse about rights and human rights.

In this light, I will now offer a brief outline of the origins, nature and development of Shari'a as a theoretical model for an Islamic way of life. Although this ideal model was rarely fully implemented in the actual lives of Islamic communities and individuals, it remains a powerful symbol and source of motivation and framework for action to the present day. This section will therefore conclude with an evaluation and discussion of the role of Shari'a in modern Islamic discourse about rights and responsibilities.

The primary sources of the conceptual frame of reference and detailed content of Shari'a are the Qur'an and Sunna of the Prophet Muhammad. Traditions of the earliest generations of Muslims were also taken as authoritative sources of Islamic guidance in popular practice. Throughout the first century of Islam, Islamic communities and individuals referred to these sources for guidance in their daily lives, in light of their own recollections of the living example of earlier generations and understanding of the message of Islam. The process of consulting scholars who were believed to be knowledgeable of the text and interpretation of the Qur'an and Sunna, and of the history and relevance of the traditions of early Islamic communities, gradually evolved into a practice of following a set of general principles and specific rulings attributed to a particular master or teacher and his leading disciples.

By the end of the second century of Islam, and beginning of the third (eighth and ninth centuries A.D.), the practice of adherence to a preferred scholar developed into a systematic and consistent following of what came to be known as his school of jurisprude, *madhhab*. For the next millennium, and largely to the present day,

the development of Shari'a has been structured and governed by the methodology, principles, and rules set by the founding teachers, their immediate disciples, and subsequent scholars of the major surviving schools of Islamic jurisprudence, *madhahib al-fiqh al-Islami*. Much of the legal and theological life of Islamic communities occurred within the framework of the school prevailing in a given community, often within a sub-division or line of thinking and authority. However, the extinction of some schools, and shifts of territorial influence among the surviving schools, testifies to a dynamic of discourse and choice by Islamic communities according to the sense of each community of which school (or sub-school) is more responsive to its needs and interests at a given time.

Several features of the formative stage of Shari'a, in contrast to subsequent developments and more recent trends, should be noted here. First, the founding scholars were engaged in a process of derivation of general principles and specific rules for the guidance of their communities, responding to queries and requests or elaborating on hypothetical questions to clarify theoretical and methodological principles as they deemed necessary and useful for the community. Thus, the founding scholars and their immediate disciples were not, and did not see or present themselves as, establishing separate or distinctive, let alone immutable, schools of thought. Yet, one school or another came to be rigidly followed as the only valid articulation of Shari'a. A more integrated approach appears to be emerging today as a result of the intellectual and political context of the modern Islamic movement, but automatic observance of the accepted school or scholar(s) continues to be the norm.

Second, the elaboration of Shari'a by the founding scholars through the interpretation of Qur'an and Sunna, in light of the living traditions of the early Islamic communities, was initially a spontaneous and unstructured process. To early Muslims, all divine guidance was contained in the Qur'an and Sunna, which were rendered in their own Arabic language and exemplified in the then oral history of their recent forefathers. Rigorous methodology for the derivation of Shari'a principles and rules evolved gradually in response to certain developments. The evolution of rigorous and systematic methodology was also probably prompted by the growing maturity and complexity of Shari'a itself.

In response to these and other factors, scholars began to develop technical rules and criteria for the interpretation of the Qur'an, the

authentication and recording of Sunna and its reconciliation with the Qur'an, the relevance and use of early traditions of Islamic communities in relation to the Qur'an and Sunna, and so forth. This occurred within each of the schools, but *al-Safi'i* is generally credited with the most systematic and influential methodological development of what came to be known as *ilm usul al-fiqh al-Islami*, the science of the foundations of Islamic jurisprudence. But, over time, that legitimate and necessary methodological regulation became too inhibiting for, indeed detrimental to, the further development of Shari'a, especially in the modern era.

This is particularly true and clear, in my view, in relation to the nature and role of *ijtihad*, literally self-exertion or effort, but referring in this sense to the exercise of deliberate juridical reasoning to derive principles and rules of Shari'a. Although technically understood by Islamic jurists as applying only to matters on which there is no clear and categorical text in the Qur'an and Sunna, *ijtihad* was clearly applied to those fundamental texts themselves. Community leaders and scholars were always exercising ijtihad in relation to the Qur'an and Sunna because they had to rely on their own judgment in deciding which provisions of the Qur'an and Sunna applied to a given situation or question, and in interpreting and applying the text(s) they deemed relevant. With the development of *usul al-fiqh*, however, *ijtihad* was regulated and restricted to the point of extinction, and remains extremely problematic to the present day. But since *ijtihad* was defined and regulated through human reason in the past, rather than being the direct product of divine revelation as such, it can be re-defined and re-regulated through human reason today and in the future.

A third significant feature to note about the formative stages of Shari'a is that while the scholars were elaborating and perfecting an ideal and comprehensive normative system, the affairs of the state were conducted more in accordance with pragmatic political expediency than with the dictates of that system. For much of Islamic history since the Amawy dynasty (661-750 A.D.), there existed "an uneasy truce between *ulama* [scholars of Shari'a] . . . and the political authorities. . . . As long as the sacred law [Shari'a] received formal recognition as a religious ideal, it did not insist on being fully applied in practice." But the dichotomy between theory and practice should neither be exaggerated nor simplified in terms of secular and religious characterizations—an important point to note in relation to current Islamic discourse as indicated later.

For one thing, this dichotomy varied from time to time and from one field of Shari'a to another in ways that maintained the credibility of the appearance of allegiance to the ideal model from both the scholarly and political points of view. Second, the "light and distant" nature of government and administration in the imperial states of the past, coupled with the diffusion of Shari'a in inaccessible treatises and commentaries, were not conducive to rigorous systematic implementation. Communities were left to conduct their daily affairs in accordance with their own local customary or traditional practices that included Shari'a norms, but not in a coherent and formal sense of codes of law in the modern sense of the term.

More significantly from the point of view of current debates about human rights in the Islamic world, the ideal of Shari'a has remained very much alive in the hearts and minds of Muslims, even when they lived under colonial administrations which sought to displace Shari'a by modern notions of law and government in formal and systematic ways. As explained by Anderson:

> To a Muslim, it has always been a far more heinous sin to deny or question the divine revelation than to fail to obey it. So it seemed preferable to continue to pay lip-service to an inviolable Shari'a, as the only law of fundamental authority, and to excuse departure from much of it in practice by appealing to the doctrine of necessity *(darura)*, rather than to make any attempt to adapt law to the circumstances and needs of contemporary life.

But this traditional attitude is presently being challenged by Islamic activists who are saying that Muslims are now free to implement the totality of Shari'a after several decades of political independence as nation-states. It is far from clear, and extremely doubtful to my mind, whether the modern Islamists' project will lead to the implementation of Shari'a as articulated by the founding scholars and known to Islamic communities through the ages. In addition to the incompatibility of fundamental aspects of Shari'a with the modern circumstances of living in pluralistic nation-states in a globalized and interdependent world, the very effort of codification and enforcement by centralized coercive authority contradicts the nature of Shari'a and the mainstream of Islamic history. Nevertheless, I would insist that the Islamists' project must be taken very seriously because of its drastic consequences to human rights, and religious human rights in particular.

Nature and Circumstances of The Present Discourse

It is difficult to generalize about the modern discourse of rights and responsibilities in all Islamic countries. Even in relation to certain regions or countries, one can identify several stages and forms of discourse. Generally speaking, however, this discourse tends to fall within two main stages, at least in relation to the countries of the Middle East and North Africa. During the struggle for independence, and immediately after it was achieved, the debate was focused upon nationalist projects whether liberal (such as that of Bourgiba in Tunisia), Arab/socialist (such as that of Nasir in Egypt), or socialist (such as that of the FLN in Algeria). Those projects were explicitly or implicitly secular in orientation with little reference, if any, to the role of Shari'a or an "Islamic ideology." However, upon the failure of the proponents of those projects to deliver the promised benefits, a variety of Islamist groups appear to have succeeded in seizing the initiative and re-defining the terms of discourse. I will focus on this second stage because of its significance to the subject of this chapter, without claiming that the "Islamization" of discourse is either total or irreversible throughout the Islamic world, or parts thereof.

In my view, discourse between Islamists and their opponents, especially in the Middle East and North Africa, is complicated by contextual and operational factors and characterized by conceptual confusion. The reasons for this include the political and historical conditions under which discourse is taking place, the orientation and power relations of the participants as well as the subject-matter and terms of reference of the discourse itself. What is of particular concern for the subject of this chapter, however, is the conceptual confusion of this discourse.

On the Islamist side, the present discourse is apparently "modern" in its form and techniques, using to great effect sophisticated methods of organization, mass media and communications technology. These modern forms and techniques are being deployed in pursuit of the declared objective of recapturing and resurrecting an idealized vision of a past "Golden Age" of a powerful civilization. But that objective is usually presented as an ideological slogan, without a clear statement of how a Shari'a model might be reconciled with the realities of a modern multi-religious nation-state or of international relations.

Despite these obvious problems with the Islamists' side of the discourse, their opponents appear to be in disarray and generally on the defensive. Possible reasons for this include such political factors as being associated in the public eye with the previous discredited nationalist, post-independence project, both liberal and socialist. Leftist Muslims appear to be demoralized and suffering a loss of ideological inspiration, especially after the collapse of the Soviet bloc and the general retreat of socialism in Europe. Liberal Muslims seem to suffer from perceptions of American patronage, which is seen as a liability in itself, in addition to its negative association with perceptions of total American bias in favor of Israel in the Arab-Israeli conflict.

The discourse is also distorted by prevailing conditions of political oppression in many countries of the region, which in turn inhibit communication and public debate, especially with respect to any subject-matter deemed by security forces to be "sensitive" or controversial. Denied access to the mostly state-owned media, the Islamists seek political support for their cause by preaching at mosques and other "religious" locations and occasions, as well as using their own media (tapes and publications). Islamists are also very effective in generating support through the provision of social and health services to the target communities. Their opponents lack the organization and orientation to use these means, but may have better access to newspapers, as and when permitted by the government, which are not read by the illiterate majority of the population. Thus, the two sides rarely interact directly between themselves, or with each other's constituencies among the public at large.

A sense of mutual hostility and suspicion is intensified, it seems, by a lack of conceptual common ground: while Islamists speak of Shari'a and the revival of the glorious Islamic tradition, the frame of reference of their opponents is modern notions of constitutionalism, democracy, and human rights. Consequently, there is not only growing polarization and mis-communication between the two sides, and between each of them and the public constituency of the other, but their respective positions are also likely to be seen as contradictory or irreconcilable. The Islamic public at large is therefore presented with a stark choice: either Islam and Shari'a or democracy and human rights, without discussion or explanation of why there must be a choice, and why in these terms in particular.

Moreover, perceptions of a wider context of a historical confrontation with the West seem to reinforce this stark choice. Islamists tend to point to Western support for democracy and human rights as a ploy of exploitation and domination. Liberal Muslims, on the other hand, are discouraged by Western double-standards, as reflected, for example, in its domineering behavior in the Gulf War of 1991 in contrast to its failure to act in Bosnia.

The most significant consequence of this wider context for our purposes here is that issues of identity and authenticity are seen as of paramount importance in a fundamental geo-political confrontation. Thus, the Islamists' discourse often seems to be more about the *right* to define the identity of the community, and the duty to protect it against hostile non-Muslims aliens and, perhaps more importantly, against subversion by corrupt Westernized elites or heretics and renegade Muslims, than about the actual meaning of that identity and its relevance in the modern national and international context. Having succeeded in emphasizing the "Islamic" dimension of that identity over all other ethnic, cultural, economic, and political elements, the Islamists now claim a monopoly over Islamic authenticity and authority to define and defend the identity of the community in those terms.

In their present defensive mode, on the other hand, opponents of the Islamists appear to be more concerned with defending themselves against charges of treason and subversion than with contesting the Islamists' right to define and defend the identity of the community in question. The very act of contesting the Islamists' definition of the identity of the community and monopoly of Islamic authenticity is seen as confirmation of the charge, rather than an attempt to incorporate other elements which may have been integral to that identity, or to oppose its political manipulation. In this way, the boundaries become more important than the content, and those threatened with exclusion become more concerned with asserting their conformity with the criteria of inclusion than with contesting those criteria and the way they are applied.

This confrontational and unproductive state of discourse, I suggest, is compounded further by two conceptual confusions, one over the relationship between religion and the state in the Islamic context, and the other pertaining to the relationship between rights and responsibilities in connection with conceptions of the individual and the community. The first is more explicit and visible; the second is more implicit in the first and less appreciated as a separate issue.

It is not possible to trace here the precise sources and chronology of the confusion about the relationship between religion and the state. It is clear, I would suggest, that this confusion evolved through a dialectical process since the middle of the last century when Muslim reformers began debating whether it is desirable to separate religion and state, or Islam and politics, in order to achieve rapid modernization. While the advocates of separation, which came to be known as secularism (*al-ilmaniya*) cited lessons from European history and quoted Western political theory in support of their position, its opponents claimed that Islam allowed no distinction between religion and state.

The coercive and intrusive manner in which secularization was imposed by authoritarian regimes in Turkey and Iran after the end of the First World War, and attempts to do so in other parts of the Islamic World after the Second World War, aggravated the confusion and intensified the controversy over the issue. At present, Islamists present secularism as an anti-religious concept designed to alienate Muslims from their religion and thereby secure and perpetuate their domination and exploitation by the West. Those who advocate separation of Islam and politics, they allege, are anti-Islamic subversive agents of alien cultures serving the interests of foreign powers. In this way, the Islamists seek to discredit their opponents while installing themselves as the acknowledged guardians of Islamic identity and authenticity.

Liberal and socialist Muslims, on the other hand, have traditionally failed to take an Islamic discourse seriously or to educate themselves in its concepts and techniques. Whether this was due to a belief that it was unnecessary to engage in such discourse, or because of a fear that to do so would mean conceding the legitimacy and authority of the Islamists' frame of reference, the fact of the matter is that an Islamic discourse has become, or is becoming, unavoidable in many Islamic countries. It is therefore important to clarify the relationship between religion and the state from an Islamic point of view.

The other serious conceptual confusion pertains to the relationship between rights and responsibilities in connection to conceptions of the individual and community. Following their premise of seeking modernization through the application of European models and political theory, Muslim reformers emphasized earlier in the twentieth century the need to protect individual liberties against encroachment by the state and

community at large. To counter that claim, Islamists now tend to emphasize the interests of the community over the rights of the individual.

This confusion is closely related to issues of identity as well as the relationship between religion and politics with direct consequences to freedom of belief. According to the Islamists, since Islam is the sole foundation of the identity of the community, the state must "regulate" freedom of belief as the essential criterion of membership in the community. By disputing this in favor of protecting individual freedom of belief, they charge, their secular (read anti-Islamic) opponents are weakening the Islamic identity of the community and undermining the Islamic nature of the state.

In this way, confrontational discourse faces modern Islamic communities with a compounded stark choice between "secular" individualism and "Islamic" communitarianism. As I will argue in the next section, the sharp dichotomy implicit in this choice is neither necessary from an Islamic religious point of view, nor realistic or useful to make in practice.

Foundations of Religious Human Rights

In light of the previous discussion, it is clear that freedom of belief ought to be supported from an *Islamic religious* point of view, because it is essential for the authenticity of religious belief and experience as such and for the vitality and relevance of an Islamic normative system to the lives of Muslims today. An equally valid and fundamental reason for such support is that freedom of belief is essential for the peace and stability of necessarily and permanently pluralistic national and international political communities.

The task set for this chapter is to examine both the positive and negative aspects of an Islamic frame of reference for religious rights as *human rights*. This should be done, first, with a view to evaluating the existence or absence, adequacy or inadequacy, of Islamic foundations for these rights. The second purpose of such an evaluation, I believe, is to seek ways of developing Islamic foundations for freedom of belief, to the extent they are absent, and of promoting them to greater adequacy and stronger influence on Islamic law and behavior.

There is an obvious "advocacy" element in my perception of the second purpose of this task (also implicit throughout my analysis) in that I am not concerned with an "objective" or

"impartial" evaluation of the situation, but rather with changing or supporting it in favor of better protection of human rights, including religious human rights. From my perspective as a Muslim who not only takes both Islam and human rights seriously, but also believe them to be mutually supportive normative systems, that is the point of the whole exercise.

The background, context, and some of the premises of my approach to this task have already been explained in the preceding sections. This final section offers a two-fold discussion. First, I shall briefly review the status of religious rights under Shari'a as commonly conceived in Islamic discourse today and assess that conception from a human rights point of view. Second, I will elaborate on a theory of stronger Islamic foundations for religious human rights with a view to promoting and enhancing the protection of these rights in Islamic countries today.

On the first count, the Shari'a scheme of religious rights provides that a person is essentially "free" to adopt or reject Islam, but certain consequences will follow from his/her choice:

1. If a person chooses to become a Muslim, or is born and raised as a Muslim, then he or she will have full rights of citizenship in an Islamic state, subject to limitations against the rights of women as conceived in modern constitutional and human rights law. However, once a Muslim or officially classified as such, a person will be subject to the death penalty if he or she becomes an apostate, that is, one who persists in repudiating his or her faith in Islam. An apostate is also subjected to forfeiture of property, nullification of marriage, and other legal consequences.
2. If a person chooses to be or remain a Christian, Jew, or believer in another scriptural religion, as defined by Shari'a—one of *ahl al-kitab*, the People of the Book or believers in divine scripture who are called *dhimmis*—he or she will suffer certain limitations of rights as a subject of an Islamic state. There are differences as to the scope and extent of these limitations among various schools of thought and individual scholars of Shari'a, and the practice has also varied over time. The essential point is that *dhimmis* are not supposed to enjoy complete legal equality with Muslims.
3. If a person is neither a Muslim nor one of *ahl al-kitab*, as defined by Shari'a, then that person is deemed to be an

unbeliever *(khafir* or *mushrik)*. An unbeliever is not permitted to reside permanently, or even temporarily according to stricter interpretations, in peace as a free person within the territory of an Islamic state except under special permission for safe conduct *(aman)*. In theory, unbelievers should be offered the choice of adopting Islam, and if they reject it they may either be killed in battle, enslaved, or ransomed if captured.

Compared to the legal and theological systems of other "state religions" of the past, it is clear that the Shari'a scheme of religious rights was superior from a modern perspective of freedom of belief. Moreover, except for minor exceptions or relatively brief periods, such as the early Fatimi dynasty in Egypt in the tenth century A.D., past and present Islamic states have generally tended to adopt the least restrictive interpretation of these principles, or to disregard them in favor of relatively greater freedom of belief.

But when judged by modern standards of human rights, the Shari'a scheme is objectionable not only because of its limitations on freedom of belief for Muslim and non-Muslims alike, but also in view of its very conception of civil and political rights on the basis of a religious classification of people. To illustrate briefly the first point, the capital crime of apostasy not only violates the right of a Muslim to adopt another faith or belief, but can and has been used to punish Muslims who express unorthodox views which are deemed to be a repudiation of belief in Islam. While limitations on the rights of non-Muslim believers clearly constitute serious discrimination on grounds of religion, the possibility of death or enslavement for an unbeliever is a total nullification of any notion of human rights in principle and content.

Moreover, the very notion of basing civil and political rights on a religious classification is inherently inconsistent with the premise of the universality of human rights, however "insignificant" the legal consequences of that universality may appear to be. I would therefore conclude that although there are foundations for some religious rights in Shari'a and in the practice of Islamic states past and present, that level of protection of freedom of belief does not offer a sufficient foundation for religious *human* rights.

Nevertheless, I suggest that it is possible to construct a coherent and conceptually valid theory of Islamic foundations of religious human rights based on the following elements. First, since Shari'a

is a historically-conditioned *human* interpretation of the fundamental sources of Islam, alternative modern interpretations are possible. Second, a reconstruction of Shari'a in support of Islamic foundations for religious human rights is imperative in view of the need for contesting and renegotiating Islamic identity and its normative system in the present circumstances of plurality of national and international political communities. Third, such a theory will be fully Islamic, because it would be based on the text of the Qur'an as interpreted and accepted by Muslims in the present context, instead of applying Shari'a principles which were the product of interpretation by earlier Muslims in their own historical context. To clarify further these elements, it is necessary to outline the hermeneutical premise of this theory.

Hermeneutics may be defined as the art or science of interpretation, especially of scriptural texts. In view of the inevitability of using human reason and action in understanding and implementing any text, as noted earlier, a hermeneutical process is necessary for understanding the purpose and normative content of a text like the Qur'an or Bible.

Each religion, or specific tradition within a religion, is supposed to have its own distinctive set of interpretative techniques and their underlying assumptions which are accepted as valid or authoritative by the adherents of the religion or tradition in question. In reality, however, there will be more than one competing hermeneutical framework, each of which is open to mutual challenge and reformulation among cobelievers. Thus, for example, the diversity of Sunni, Shi'a, and Sufi Muslim schools of thought signify differences in the hermeneutical framework, not only among Muslims in general but also among those who belong to each of the Islamic traditions.

Although the proponents of one Islamic interpretative framework would normally tend to characterize those of others as invalid or illegitimate, even un-Islamic, the only reasonable and practical way to settle such differences is for each side to present its case to the relevant community of believers as the ultimate arbiter and mediator between competing frameworks. This would usually happen in the process of seeking the support and allegiance of the community, and the issue would be settled over time through the community's adoption or rejection of one point of view or another. But how does a particular type of Islamic interpretative framework emerge and prevail over others at a certain time?

The emergence of a new interpretative framework, I suggest, is normally a function of individual and collective orientation, that is to say, the conditioning of the existential or material circumstances of the person and the community in relation to the text. A Muslim, for example, would understand the text of the Qur'an, and derive its normative implications, in terms of his or her knowledge and experience of the world, including perceptions of self-interest in political, economic, and social context, and of the realities of inter-communal and/or international relations. A similar process, I maintain, operates at the communal level in that the prevalence or demise of an interpretative framework is normally a function of the collective orientation of the community as defined above, that is to say, the conditioning of the existential or material circumstances of the community at a given time.

This does not mean that the process is either completely deterministic in that interpretations are automatically determined by settled and immutable orientations, or wholly relativistic in opening religious texts to all and every type of interpretation. The process is not deterministic because individual and collective orientations are sometimes influenced by visions of change and transformation beyond the immediate conditioning of circumstances as perceived by the general population. Otherwise, there would be no opportunity for the emergence of radical ideas and social movements capable of transcending the conditioning of individual and communal circumstances, and indeed eventually transforming those circumstances themselves. Individuals and communities do exercise a choice in articulating, adopting, or rejecting one interpretative framework or another.

The process is not arbitrary and relativistic because the validity of a proposed interpretation is judged by a living community through serious discussion and deliberation. The proponents of each interpretation will, of course, seek to win the support of the community through the use of what they claim are Islamic concepts and arguments, but it is the community which will ultimately make that determination. In practice, the community may follow the advice of its political or opinion leaders, and those whose proposals were thereby rejected should accept that decision until they can either win those leaders over or persuade the community not to follow their advice. The alternative is to seek to impose their interpretation on the community which will only be counter-productive in the end.

In the process of emergence and adoption or rejection of interpretative frameworks there is the factor of "historical contingency," which refers to the notion that an idea will not emerge or prevail prematurely. But since historical contingency can only be judged in retrospect, who is to predict whether or not an idea is in fact premature and how can that be done with certainty? The emergence of an idea and the ability of its proponents to propagate it are indications of the ripening of historical contingency, but only time will tell whether or not the circumstances of the period were conducive to the conditioning and/or individual and collective choice that would allow it to prevail. In fact, as illustrated by the history of major religions, including Islam, social and political resistance are to be expected, and should not be taken as conclusive evidence of the final rejection of an idea, however radical or innovative it may appear to be.

To illustrate briefly the application of this analysis to the subject of Islamic foundations of religious human rights, I would cite verse 137 of chapter 4, which can be translated as follows:

> Those who believed, then disbelieved, believed again and disbelieve once more, and become even more disbelieving, God shall not forgive them or guide them on the right path.

Although the majority of early Islamic scholars interpreted this verse as consistent with the imposition of the death penalty for apostasy, I would see it as conclusively excluding any possibility of punishment for disbelief in this life, since there is no mention of such punishment in this verse or anywhere else in the Qur'an. The difference between my understanding of this verse and that of early scholars, which is still advocated by some Islamists today, reflects divergence in interpretative frameworks, but neither is more or less Islamic because of that reason alone. Disagreement between these frameworks and their normative implications should be settled by the community of Muslims at large in light of the Islamic argumentation presented on behalf of each position.

The example of apostasy is particularly appropriate for the purposes of my analysis, because it also involves the conceptual confusions mentioned earlier, namely, the question of the relationship between Islam and the state and that between rights and responsibilities. In the absence of Qur'anic authority, as noted earlier, the punishment of apostasy under Shari'a is based on reports of Sunna. But the support of Sunna for this punishment

is valid only on the assumption of a certain type of unity of Islam and the state and a particular view of rights and responsibilities that conditions the former on performance of the latter. Sunna can be understood to support imposing the death penalty for apostasy only if disbelief is equated with high treason on the assumption that citizenship is based on belief in Islam. That assumption, in turn, is valid only under a view of entitlement to the rights of citizenship on the condition of satisfactory performance of the responsibilities of belief as a pre-requisite of membership of the community whose members enjoy those rights. Moreover, this reasoning is premised on a conception of freedom of belief as a conditional right of citizens and not as a human right to which all human beings are entitled.

While this reasoning and its underlying premise were valid, in my view, in the historical context of the formative stages of Shari'a, they are no longer valid today, The individual and collective orientations of Muslims today. I believe, are probably different from those of earlier generations because of the radical transformation of existential and material circumstances of today compared to those of the past. In contrast to the localized traditional existence of past Islamic societies, Muslims today live in multi-religious nation-states which are fully incorporated into a globalized world of political, economic, and security interdependence, and constantly experiencing the effects of mutual social/cultural influence with non-Islamic societies. While some individual Muslims may still choose to advocate traditional notions of community and conditionality of rights, the reality of the pluralistic national and international political communities of today support entitlement to freedom of belief as a human right rather than a conditional right of membership of a religious community.

In support of the view that freedom of belief is a human right to which all human beings are entitled by virtue of their humanity, rather than a right conditioned upon the performance of certain responsibilities of membership in a community, I would note that the right is needed and useful only in the former rather than the latter sense. If the benefits of freedom of belief is available only to believers who are accepted as such, what is the rationale for having a right to freedom of belief at all? The right to freedom of belief is needed, and can be claimed, only by non-believers and believers who are not accepted as such by the community in

question. I would also recall here the argument made earlier about the importance of freedom of belief, including the right of dissent, for the vitality and relevance of the religion itself and its normative system.

Finally, I wish to add the following suggested clarification of the above-mentioned conceptual confusion of the relationship between religion and the state and that of the individual and community in the Islamic context. In my view, notions of complete unity of religion and state, on the one hand, and their strict separation in a community of believers, on the other, are both conceptual fallacies which also lacks support in Islamic history, including the articulation and implementation of Shari'a itself.

The organic relationship between religion and *politics* is too obvious to deny, and is not problematic except when it results in restrictions on the legal and human rights of citizens on the ground of their faith or belief. Even with regard to the state, religion can legitimately play a ceremonial or symbolic role in public life. What is objectionable is for religious beliefs to be constituted as the basis of political authority and legal system of a nation-state in ways which, for example, condition or base legal and human rights on faith or belief or gender. To do so would immediately repudiate the survival of the political community as well as undermine the integrity and authenticity of religious belief and practice.

It is important to inject this clarification in current discourse about rights and human rights in Islamic countries today, because, as indicated earlier, the protagonists tend to misconceive the issues and unduly restrict the options open to Islamic societies. Instend of facing Islamic societies with a false stark choice between total unity or complete separation of Islam and politics/state, participants in the discourse should seek to clarify and articulate a formulation of the relationship in ways which satisfies an Islamic sense of identity and self-determination without violating internationally-recognized human rights norms.

It is also important to emphasize that secularism, as practiced in many parts of the world (and not only the West), is not anti-religion. On the contrary, secularism was conceived and applied in parts of Western Europe and the United States in order to protect freedom of belief and promote religious piety. Moreover, there is nothing in the concept and practice of secularism to justify associating it as such with the exploitation and domination of

others. Western powers did not colonize, and now seek to dominate, Islamic countries *because* the former were/are secular, or *through* secularizing the latter countries. Nevertheless, the existence of these misconceptions must be acknowledged and addressed by those who are concerned that the relationship between Islam and politics or the state is not only compatible but also fully supportive of universal human rights, including religious human rights.

Conclusion: Realities and Prospects

Islamic Shari'a and history present a mixed picture regarding foundations of religious human rights, whereby the theory of the freedom of belief was comparatively superior to those of other state-religions in the past and the practice was generally better than the theory, but both are no longer acceptable from a modern human rights point of view. Strong Islamic foundations for religious human rights are conceptually possible, but their practical prospects depend on the outcome of the current discourse in Islamic countries.

Although I strongly believe in the Islamic validity of the theory presented in this chapter, I would neither suggest that it is the only possible Islamic foundation of religious human rights nor claim that it is necessarily widely accepted as such in practice. In my view, the more Islamic foundations for religious human rights one can find, the better, for these multiple foundations will support and reinforce each other in promoting these rights as universal human rights. My theory may not be consciously accepted as such, but all its factual elements and essential logical premises are familiar to educated Muslims and scholars of Islam.

By addressing it to Muslims, I hope that my theory will contribute to promoting an Islamic commitment to religious human rights, and thereby influence current and future practice in favor of greater respect and protection of these rights in Islamic countries today. A better understanding by non-Muslims of the prospects and problems of Islamic foundations for religious human rights, together with efforts from other religious perspectives contained in this book and its sequal, should also contribute to enabling believers and non-believers alike to collaborate in a global project to protect and promote universal religious human rights.

9

Rights of Women within Islamic Societies

Before I address the issue of the human rights of women within Islamic communities, I consider it necessary to reflect on two areas of concern which have—in my judgment—a critical bearing on the human rights debates in the present-day Muslim world. The first area of concern relates to some widely-held assumptions regarding human rights and to the secular nature of the human rights discourse which has developed within the framework of the United Nations. The second area of concern relates to the perception of Islam and Muslims, in and by the West, and the image of Muslim women which has become prevalent in Western societies.

Some Assumptions About "Human Rights"

In the contemporary world, the term "human rights" has become a fad, and it is often used rather glibly. Underlying this usage is the assumption that everyone knows what "human rights" are and from whence they came. Another widespread assumption is that human beings do, in fact, possess "human rights." If the latter assumption were valid, that is, if "human rights" were a universal human possession, there would not be significant numbers of persons in virtually every society in the world struggling, either openly or surreptitiously, to secure their "human rights."

It may be argued, on a philosophical plane, that "human rights" do exist, though they are not exercised by all or even most human beings. This argument leads, however, to the question: If "human rights" exist though they are not being exercised by all or most human beings (many of whom would be astonished to know that they had any such "rights"), then in what sense do these "human rights" *exist*? It is an historical fact that "human rights" have never been, nor are they now, the universal possession of humankind, although the United Nations adopted the International Bill of Human Rights containing the Universal Declaration of Human Rights in 1948.

It may also be argued that, though all or most human beings do not exercise their "human rights," these rights remain intact since human beings can exercise them whenever they choose to do so, because these rights are universally recognized and enforceable by courts of law. In answer to this argument (besides remembering the words of Shakespeare regarding the delays of justice), I would like to cite the words of an eminent Muslim jurist:

> It would be pointless to detail the progressive erosion of human rights in so many contemporary constitutions around the world. Against the rising tide of governmental interference and despotism, they are proving like dikes of straw. Under the guise of creating a "welfare state" or "an egalitarian society," most rights have been deprived of all meaning or significance. In some parts of the world they are directly suspendable and often remain suspended. In states that claim socialist objectives, many of these rights are deprived of enforceability through independent courts; in some constitutions they have been made subject to so many constitutionally authorized inroads as to become devoid of all reality. Even in countries where they do not suffer from any of the above limitations, judicial interpretation has, in deference to the idea of State activism and the welfare of the people, severely limited their scope. Perhaps never before has man enjoyed so great a capacity for good and for bad as today; yet never before has an individual felt, as now, so helpless in confrontation with the power and weight of faceless governmental agencies. Power like wealth accrues in the hands of those who wield it. The constitutional limitations of the free world appear to provide little safeguard or guarantee against the continuation of this trend.

The Universal Declaration of Human Rights

Though the Universal Declaration of Human Rights is called "universal," it "was articulated along the lines of historical trends of the Western world during the last three centuries, and a certain philosophical anthropology of individualistic humanism which helped justify them." The Declaration simply assumed a universal human nature common to all the peoples, the dignity of the individual, and a democratic social order.

In the decades since the Declaration, the term "human rights" has become an integral part of both political and popular discourse, particularly amongst Western, and Western-educated, persons. Until very recently most of this discourse has been largely in secular terms. In fact, it is frequently assumed, and stated, by many advocates of human rights, in both Western and non-Western (including many Muslim) countries, that human rights can exist only within a secular context and not within the framework of religion.

Underlying the stance that the concept of human rights is fundamentally secular, and, therefore, outside of, and even antithetical to, the worldview of religion, is—of course—a certain view of religion in general, or of particular religions. In Muslim countries such as Pakistan, for instance, it is often remarked by secular-minded proponents of human rights that it is not meaningful to talk about human rights in Islam because as a religious tradition, Islam has supported values and structures which are incompatible with the assumptions which underlie the Universal Declaration of Human Rights.

What needs to be pointed out to those who uphold the Universal Declaration of Human Rights to be the highest or sole model of a charter of equality and liberty for all human beings is that given the Western origin and orientation of this Declaration, the "universality" of the assumptions on which it is based is—at the very least—problematic and subject to questioning. Furthermore, the alleged incompatibility between the concept of human rights and religion in general, or particular religions such as Islam, needs to be examined in an unbiased way.

A Popular Muslim Reaction

Muslims, reacting to the charge that human rights can only exist within a "Western" and/or "secular" society, are apt to make statements such as the following by A.K. Brohi, a legal

scholar and philosopher who served as a Federal Minister in the Pakistan government:

> There is a fundamental difference in the perspectives from which Islam and the West each view the matter of human rights. The Western perspective may by and large be called anthropocentric in the sense that man is regarded as constituting the measure of everything since he is the starting point of all thinking and action. The perspective of Islam on the other hand is theocentric—God-conscious. Here the Absolute is paramount, and man exists only to serve his Maker, the Supreme Power and Presence which alone sustains his moral, material and spiritual make-up, secures the realisation of his aspirations and makes possible his transcendence. . . . [In the West] the rights of man are seen in a setting which has no reference to his relationship with God, but are posited as his inalienable birthright. The student of growth of Western civilization and culture notices throughout that the emphasis is on human rights within an "anthropocentric" perspective of human destiny. Each time the assertion of human rights is made it is done only to secure their recognition from some secular authority such as the state itself or its ruling power. In marked contrast to this approach the strategy of Islam is to emphasize the supreme importance of our respect for human rights and fundamental freedom as an aspect of the quality of religious consciousness that it claims to foster in the heart, mind and soul of its followers. The perspective is "theocentric" through and through. . . . It seems at first sight, therefore, that there are no human rights or freedoms admissible to man in the sense in which modern man's thought, belief and practice understand them; in essence, the believer has only obligations or duties to God since he is called upon to obey the Divine Law, and such human rights as he is made to acknowledge stem from his primary duty to obey God. Yet paradoxically, in these duties lie all the rights and freedoms. Man acknowledges the rights of his fellow men because there is a duty imposed on him by the religious law to obey God and the Prophet and those who are constituted as authority to conduct the affairs of state. In everything that a believer does his primary nexus is with his Maker, and it is through Him that he acknowledges his relationship with the rest of his fellowmen as even with the rest of creation.

> In the words of the Qur'an, "Man has been created only to serve God."

While Brohi is correct in saying that the perspective of Islam is God-centered, his generalization that the Western perspective is "anthropocentric" needs to be seriously qualified. The viewpoint of many Christians and Jews who form a significant component of the Western world is, in fact, similar to that of Brohi. For instance, writing on *The Judeo-Christian Heritage and Human Rights*, Carl F.H. Henry, a Protestant theologian and founding editor of *Christianity Today*, states:

> Though it may at first seem astonishing to the contemporary mind, Jewish law, as Haim Cohn remarks, embraces no concept of human rights in the modern sense. The Bible stresses "not rights but duties—and these were essentially duties to God," Louis Henkin reminds us, "although fellowman was the beneficiary of many of them". . . . The Bible has a doctrine of divinely imposed duties; what moderns call human rights are the contingent flipside of those duties. . . . To be sure, many biblical duties—if not all—imply a corresponding enforceable right. The divine prohibition of theft or of removal of a landmark implies an unstated right to property and possession.

Henry goes on to make a comparison between the Biblical approach to human rights and the Universal Declaration of Human Rights—a comparison which would be echoed by many Muslims including Brohi. Henry writes:

> The Universal Declaration of Human Rights (1948) presents a panorama of human rights while it says very little about human duties and nothing at all about duties to God. Only Article 29, which limits the exercise of rights by reciprocal rights and a regard for morality, public order and general welfare, refers to human duty, and even here the context is anthropological. Although the stipulated rights are considered the generally acknowledged norms of modern civilization, none is legally enforceable since the Declaration wholly ignores the subject of ultimate source and sanction of rights and does not even obligate states to enact the stipulated rights. The Bible, by contrast, has no notion of publicly unobligated individuals who are beneficiaries of rights—claims, or of ultimate rights formulated and conferred by earthly institutions, let alone of civil government existing only as a humanly

devised option. "Do unto others," said Jesus, "as you would that they do unto you" (*Matthew* 7:12).

The fact that the Universal Declaration of Human Rights does not acknowledge religion as a source of human rights points to what I consider a critical flaw in the orientation of the United Nations. It is understandable why in 1948, against the backdrop of massive human conflicts, the United Nations would want to distance itself from any sort of identification with religion which has, historically, contributed significantly to much divisiveness and strife in the world. However, it is much less understandable how the United Nations could become so trapped in its secular discourse that it would persist in its refusal to deal with the fact that for millions of human beings whose lives are rooted in belief rather than unbelief, human rights become meaningful only when they are placed within the framework of their belief-system.

The United Nations may well be coming to that realization. In the document produced at the conclusion of the United Nations International Conference on Population and Development, held in Cairo in September 1994, "religion, ethics, and culture" were considered to be factors which are relevant in population planning and development. This recognition of the place of religion marks a shift, which is radical enough to be called a paradigm shift, in the orientation of the United Nations. This shift away from a wholly secular mindset is likely to make the United Nations much more effective in reaching out to masses of people in many parts of the world.

While it is necessary, in my opinion, to recognize the importance of religion as a major, if not *the* primary, source of human rights for a large number of human beings, including the majority of Muslims, in the world, I have great difficulty in accepting as valid or normative Brohi's statement that "Man acknowledges the rights of his fellow men because this is a duty imposed on him by the religious law to obey God and the Prophet and those who are constituted as authority to conduct the affairs of state." Certainly, modern Islam's most outstanding thinker, Muhammad Iqbal, who spent his whole life teaching Muslims how to develop their selfhood and who believed that "art, religion and ethics must be judged from the standpoint of personality," would have challenged the idea that the highest human morality consisted either in obedience to a law which was externally imposed or in doing one's duty to one's fellow beings only from

a sense of religious constraint. In Iqbal's own words, "There are many who love God and wander in the wilderness; I will follow the one who loves the persons made by God."

For hundreds of years now, Muslims have been taught that they were created to serve God by obeying those in authority over them and by enduring with patience whatever God willed for them. For hundreds of years, Muslim masses have patiently endured the grinding poverty and oppression imposed on them by those in authority. Not to be enslaved by foreign invaders whose every attempt to subjugate them was met with resistance, Muslim masses were enslaved by Muslims in the name of God and the Prophet, made to believe that they had no rights, only responsibilities; that God was the God of Retribution, not of Love; that Islam was an ethic of suffering, not of joyous living; that they were determined by "Qismat" or Fate, not masters of their own fate. The heroic spirit of Muslim thinkers such as Syed Ahmad Khan and Iqbal, who were born in India in the last century—products not only of a pluralistic society but also of an East-West synthesis—brought about a Renaissance in the Muslim world and liberated Muslims from the multi-faceted bondage of colonialism. Their work, however, was not completed, since the traditionalism, which has been eating away at the heart of Islam for several centuries continues to hold sway over most of the Muslim world. What we are witnessing today in the Muslim world is of extreme interest and importance, for we are living in an age of both revolutions and involutions, of both progression and retrogression, of both great light and great darkness. It is imperative for Muslims that they rethink their position on all vital issues, since we can no longer afford the luxury of consoling ourselves for our present miseries and misfortunes by an uncritical adulation of a romanticized past. History has brought us to a point where rhetoric will not rescue us from reality and where the discrepancies between Islamic theory and Muslim practice will have to be accounted for.

Having drawn attention to aspects of the on-going debate on human rights in the contemporary world which seem to me to be highly relevant in understanding the issue of human rights in the context of the Muslim world, I turn to my second area of concern which relates to the way Islam and Muslims are perceived in the West. This perception along with the way in which Muslim women are commonly portrayed in Western societies, also plays—I believe—a crucial role in the evolving discussion on human rights in many Muslim communities throughout the world.

Western Perceptions of Islam (and of Muslim Women)

Since the 1970s, there has been a growing interest in the West in Islam and Muslims. Much of this interest has been focussed, however, on a few subjects such as Islamic Revival, Islamic Fundamentalism, The Salman Rushdie Affair, and Women in Islam, rather than on understanding the complexity and diversity of the World of Islam. Not only the choice of subjects, but also the manner in which these subjects have generally been portrayed by Western media or popular literature calls into question the motivation which underlies the selective Western interest in Islam and Muslims. It is difficult to see this interest as being positively motivated given the widespread negative stereotyping of Islam and Muslims in the West.

Though there are a number of Americans who had not paid any serious attention to Islam or Muslims until the Arab oil embargo of 1973 or the Iranian Revolution of 1979, propaganda against Islam and Muslims is nothing new in the West. It is as old as the first chapter of Islamic history, when the new faith began to move into territories largely occupied by Christians. Dante, the great poet of medieval Christianity, perceived the Prophet of Islam as the divider of the world of Christendom and assigned him to all but the lowest level of hell for his grievous "sin." St. Thomas Aquinas, the most outstanding Scholastic philosopher who owed such profound debt to the thinkers of Muslim Spain, described Islam as nothing but a construct to accommodate the lust of Muhammad. What far-reaching shadows were cast upon the future by powerful Christian voices such as those of Dante and Aquinas can be glimpsed from Thomas Carlyle's historic lecture on "The Hero as Prophet. Mahomet: Islam" in the series entitled *On Heroes, Hero-Worship and The Heroic in History*. Writing in the mid-nineteenth century, Carlyle urged his fellow Christians to dismiss "*our current hypothesis* about Mahomet, that he was a scheming Imposter, a Falsehood Incarnate, that his religion is a mere quackery and fatuity."

Given the reservoir of negative images associated with Islam and Muslims in "the Collective Unconscious" of the West, it is hardly surprising that, since the demise of the Soviet Empire, "the World of Islam" is being seen as the new "Enemy" which is perhaps even more incomprehensible and intractable than the last one. The routine portrayal of Islam as a religion spread by the

sword and characterized by "Holy War," and of Muslims as barbarous and backward, frenzied and fanatic, volatile and violent, has led, in recent times, to an alarming increase in "Muslim-bashing"—verbal, physical, and psychological—in a number of Western countries.

In the midst of so much hatred and aversion toward Islam and Muslims in general, the outpouring of so much sympathy, in and by the West, toward Muslim women appears, at a surface level, to be an amazing contradiction. Are Muslim women also not adherents of Islam? Are Muslim women also not victims of "Muslim-bashing"? Few of us can forget the brutal burning of Turkish Muslim girls by German gangsters or the ruthless rape of Bosnian Muslim women by Serbian soldiers. In what way, then, am I—a Muslim woman—to interpret the "sympathy" shown to Muslim women by the popular rhetoric of the West?

As a Muslim woman who has lived for the greater part of her life in the West, I find it difficult to believe on the basis of my experience, that there is much genuine concern for Muslim women in many Western countries or peoples. The concern which exists in a country with a large Muslim population—such as England—is that the cultural norms and values of British society not be jeopardized or compromised by "foreigners" like the Muslims. A large number of Muslims living in England happen to be blue-collar workers who are devout religiously and highly conservative insofar as attitudes toward women are concerned. This was the case when I was a student at the University of Durham in England during the 1960s. At that time neither the religious devotion of the Muslims nor their attitude toward women caused much concern to British society. But things changed radically and dramatically after the publication of *The Satanic Verses* by Salman Rushdie, in the fall of 1989. The intense reaction of the Muslims to this book which degraded, with a calculated deliberateness, that which was most sacred to them in their religious tradition, caused grave alarm to the British who began to see the Muslims in Britain as a threat to their "secular democracy." One very effective way to get back at the Muslims was to hit them where it would hurt the most—by politicizing the issue of Muslim women. Images of "poor, oppressed" Muslim women began to attract more and more publicity, not only in England but also in other Western countries with sizeable Muslim minorities, as Muslims generally were denounced as anti-Western, anti-rational, anti-modern, even anti-human.

The Qur'an and Human Rights

Since the modern notion of human rights originated in a Western, secular context, Muslims in general, but Muslim women in particular, find themselves in a quandary when they initiate, or participate in, a discussion on human rights whether in the West or in Muslim societies. Based on their life experience, most Muslim women who become human rights advocates or activists feel strongly that virtually all Muslim societies discriminate against women from cradle to grave. This leads many of them to become deeply alienated from Muslim culture in a number of ways. This sense of alienation often times leads to anger and bitterness toward the patriarchal structures and systems of thought which dominate most Muslim societies. Muslim women often find much support and sympathy in the West so long as they are seen as rebels and deviants within the world of Islam. But many of them begin to realize, sooner or later, that while they have serious difficulties with Muslim culture, they are also not able to identify with Western, secular culture. This realization leads them to feel—at least for a time—isolated and alone. Much attention has been focussed, in the Western media and literature, on the sorry plight of Muslim women who are "poor and oppressed" in visible or tangible ways. Hardly any notice has been taken, however, of the profound tragedy and trauma suffered by the self-aware Muslim women of today who are struggling to maintain their religious identity and personal autonomy in the face of both the imperialism of Western, secular culture and the intransigence of Islamic traditional culture.

We need to clarify the term "the Islamic tradition." The Islamic tradition—like other major religious traditions—does not consist of, or derive from, a single source. Most Muslims, if questioned about its sources, are likely to refer to more than one of the following: the *Qur'an* or the Book of Revelation which Muslims believe to be God's Word transmitted through the Agency of Angel Gabriel to the Prophet Muhammad; *Sunnah* or the practical traditions of the Prophet Muhammad; *Hadith* or the oral sayings attributed to the Prophet Muhammad; *Fiqh* Jurisprudence) or *Madahib* (Schools of Law); and the *Shari'a* or code of law which regulates the diverse aspects of a Muslim's life. While these "sources" have contributed to what is cumulatively referred to as "the Islamic tradition," they are not identical or considered to be of equal weight. Of all the sources of the Islamic tradition, undoubtedly, the most important is the Qur'an which is regarded

by Muslims in general, as *the* primary, and most authoritative, source of normative Islam.

Given the centrality of the Qur'an to the lives of the majority of the more than one billion Muslims of the world, the critical question which has been the subject of my reflection for many years is: What, if anything, does the Qur'an say about human rights? On the basis of my research and reflection, as well as my deepest faith, I believe that the Qur'an is *the* Magna Carta of humar. rights and that a large part of its concern is to free human beings from the bondage of traditionalism, authoritarianism (religious, political, economic, or any other), tribalism, racism, sexism, slavery or anything else that prohibits or inhibits human beings from actualizing the Qur'anic vision of human destiny embodied in the classic proclamation: Towards Allah is thy limit.

In this section, I offer an account of the Qur'an's affirmation of fundamental rights which all human beings ought to possess because they are so deeply rooted in our humanness that their denial or violation is tantamount to a negation or degradation of that which makes us human. From the perspective of the Qur'an, these rights came into existence when we did; they were created, as we were, by God in order that our human potential could be actualized. These rights not only provide us with an opportunity to develop all our inner resources, but they also hold before us a vision of what God would like us to be: what God wants us to strive for and live for and die for. Rights created or given by God cannot be abolished by any temporal ruler or human agency. Eternal and immutable, they ought to be exercised since everything that God does is for "a just purpose."

Right to Life

The Qur'an upholds the sanctity and absolute value of human life and states in Surah 6: *Al-An'am*: 151:

> do not take any human being's life—(the life) which God has declared to be sacred—otherwise than in (the pursuit of) justice: this has He enjoined upon you so that you might use your reason.

In Surah 5: *Al-Ma'idah*: 32, the Qur'an points out that, in essence, the life of each individual is comparable to that of an entire community and, therefore, should be treated with the utmost care: "We ordained for the Children of Israel that if any one slew a person unless it be for murder or for spreading mischief in the

land it would be as if he slew the whole people: And if any one saved a life, it would be as if he saved the life of the whole people."

Right to Respect

In Surah 17: *Al-Isra'*:70, the Qur'an says: "Now, indeed, We have conferred dignity on the children of Adam. "Human beings are deemed worthy of esteem because of all creation they alone chose to accept the "trust" of freedom of the will (Surah 33: *Al-Ahzab*: 72). Human beings can exercise freedom of the will because they possess the rational faculty, which is what distinguishes them from all other creatures (Surah 2: *Al-Baqarah*: 30-34). Though human beings can become "the lowest of the lowest," the Qur'an declares that they have been made "in the best of moulds" (Surah 95: *At-Tin*: 4-6), having the ability to think, to have knowledge of right and wrong, to do the good and to avoid the evil. Thus, on account of the promise which is contained in being human, namely, the potential to be God's vicegerent on earth, the humanness of all human beings is to be respected and considered to be an end in itself.

Right to Justice

The Qur'an puts great emphasis on the right to seek justice and the duty to do justice. In Surah 5: *Al-Ma'idah*: 8, it tells the believers:

> O you who have attained to faith! Be ever steadfast in your devotion to God, bearing witness to the truth in all equity; and never let hatred of any one lead you into the sin of deviating from justice. Be just: this is the closest to being God-conscious.

And again, in Surah 4: *An-Nisa'*: 13f; the Qur'an emphasizes the importance of upholding justice:

> O ye who believe! Stand out firmly for justice, as witnesses to Allah, even as against yourselves, or your parents, or your kin, and whether it be (against) rich or poor: for Allah can best protect both. Follow not the lusts (of your hearts), lest ye serve, and if ye distort (justice) or decline to do justice, verily Allah is well-acquainted with all that ye do.

In the context of justice, the Qur'an uses two concepts: *"àdl"* and *"ihsan."* Both are enjoined, and both are related to the idea of "balance," but they are not identical in meaning. *"Àdl"* is defined by A.A.A. Fyzee, a well known scholar of Islam, as "to be equal, neither more nor less." Explaining this concept, Fyzee wrote: "in

a court of Justice the claims of the two parties must be considered evenly, without undue stress being laid upon one side or the other. Justice is introducing the balance in the form of scales that are evenly balanced." *"Àdl"* was described in similar terms by Abu'l Kalam Azad, a famous translator of the Qur'an and noted writer, who stated: "What is justice but the avoiding of excess? There should be neither too much nor too little; hence the use of scales as the emblems of justice." Lest any one try to do too much or too little, the Qur'an points out that no human being can carry another's burden or attain anything without striving for it (Surah 53: *An-Najm*: 38-39).

Recognizing individual merit is a part of *"àdl,"* the Qur'an teaches that merit is not determined by lineage, sex, wealth, worldly success, or religion, but by righteousness. Righteousness consists of both right "belief" *("iman")* and just "action" *("àmal")* as clearly indicated by Surah 2: Al-Baqarah: 177, which states:

> It is not righteousness that ye turn your faces towards East or West; but it is righteousness to believe in God and the Last Day, and the Angels, and the Book, and the Messengers; to spend your substance, out of love for Him, for your kin, for orphans, for the needy, for the wayfarer, for those who ask, and for the ransom of slaves; to be steadfast in prayer, and practice regular charity; to fulfill the contracts which ye have made; and to be firm and patient, in pain (or suffering) and adversity, and throughout all periods of panic. Such are the people of truth, the God-fearing.

Surah 49: *Al-Hujurat*: 13 tells us: "The most honoured of you in the sight of Allah is (he who is) the most righteous of you." While Surah 4: *An-Nisa'*: 95 distinguishes clearly between passive believers and those who strive in the cause of God:

> Such of the believers as remain passive—other than the disabled—cannot be deemed equal to those who strive hard in God's cause with their possessions and their lives. God has exalted those who strive hard with their possessions and their lives far above those who remain passive. Although God has promised the ultimate good unto all (believers), yet has God exalted those who strive hard above those who remain passive by (promising them) a mighty reward—(many) degrees thereof—and forgiveness of sins, and His grace; for God is indeed much forgiving, a dispenser of grace.

Just as it is in the spirit of *"àdl"* that special merit be considered in the matter of rewards, so also special circumstances are to be considered in the matter of punishments. For instance, for crimes of unchastity the Qur'an prescribes identical punishments for a man or a woman who is proved guilty (Surah 24: *An-Nur:* 2), but it differentiates between different classes of women: for the same crime, a slave woman would receive half, and the Prophet's consort double, the punishment given to a "free" Muslim woman (Surah 4: *An-Nisa'*: 25; Surah 33: *Al-Ahzab*: 30). In making such a distinction, the Qur'an while upholding high moral standards, particularly in the case of the Prophet's wives whose actions have a normative significance for the community, reflects God's compassion for women slaves who were socially disadvantaged.

While constantly enjoining *"àdl,"* the Qur'an goes beyond this concept to *"ihsan,"* which literally means, "restoring the balance by making up a loss or deficiency." In order to understand this concept, it is necessary to understand the nature of the ideal society or community ("ummah") envisaged by the Qur'an. The word *"ummah"* comes from the root "umm" or "mother." The symbols of a mother and motherly love and compassion are also linked with the two attributes most characteristic of God, namely, *"Rahim"* and *"Rahman,"* both of which are derived from the root *"rahm,"* meaning *"womb."* The ideal *"ummah"* cares about all its members just as an ideal mother cares about all her children, knowing that all are not equal and that each has different needs. While showing undue favor to any child would be unjust, a mother who gives to a "handicapped" child more than she does to her other child or children, is not acting unjustly but exemplifying the spirit of *"ihsan"* by helping to make up the deficiency of a child who is unable to meet the requirements of life. Thus *"ihsan"* shows God's sympathy for the "disadvantaged" segments of human society (such as women, orphans, slaves, the poor, the infirm, and the minorities).

Right to Freedom

As stated earlier, the Qur'an is deeply concerned about liberating human beings from every kind of bondage. Recognizing the human tendency toward dictatorship and despotism, the Qur'an says with clarity and emphasis in Surah 3: *Al-'Imran:* 79:

> It is not (possible) that a man, to whom is given the Book, and Wisdom, and the Prophetic Office, should say to people: "Be

> ye my worshippers rather than Allah's." On the contrary (He would say): "Be ye worshippers of Him Who is truly the Cherisher of all."

The institution of human slavery is, of course, extremely important in the context of human freedom. Slavery was widely prevalent in Arabia at the time of the advent of Islam, and the Arab economy was based on it. Not only did the Qur'an insist that slaves be treated in a just and humane way, but it continually urged the freeing of slaves. By laying down, in Surah 47: *Muhammad:* 4, that prisoners of war were to be set free, "either by an act of grace or against ransom," the Qur'an virtually abolished slavery since "[t]he major source of slaves—men and women—was prisoners of war." Because the Qur'an does not state explicitly that slavery is abolished, it does not follow that it is to be continued, particularly in view of the numerous ways in which the Qur'an seeks to eliminate this absolute evil. A Book which does not give a king or a prophet the right to command absolute obedience from another human being could not possibly sanction slavery in any sense of the word.

The greatest guarantee of personal freedom for a Muslim lies in the Qur'anic decree that no one other than God can limit human freedom (Surah 42: *Ash-Shura:* 21), and in the statement that "Judgment (as to what is right and what is wrong) rests with God alone." (Surah 12: *Yusuf:* 40). As pointed out by Khalid M. Ishaque, an eminent Pakistani jurist:

> The Qur'an gives to responsible dissent the status of a fundamental right. In exercise of their powers, therefore, neither the legislature nor the executive can demand unquestioning obedience. . . . The Prophet, even though he was the recipient of Divine revelation, was required to consult the Muslims in public affairs. Allah addressing the Prophet says: ". . . and consult with them upon the conduct of affairs. And. . . when thou are resolved, then put thy trust in Allah" (Surah 3: *Al-'Imran:* 159).

Since the principle of mutual consultation *("shura")* is mandatory (Surah 42: *Ash-Shura:* 38), it is a Muslim's fundamental right, as well as responsibility, to participate in as many aspects of the community's life as possible.

The Qur'anic proclamation in Surah 2: *Al-Baqarah:* 256: "There shall be no coercion in matters of faith" guarantees freedom of

religion and worship. This means that, according to Qur'anic teaching, non-Muslims, living in Muslim territories, should have the freedom to follow their own faith-traditions without fear or harassment. A number of Qur'anic passages state clearly that the responsibility of the Prophet Muhammad is to communicate the message of God and not to compel anyone to believe. The right to exercise free choice in matters of belief is unambiguously endorsed by the Qur'an in Surah 18: *Al-Kahf:* 29, which states: "The Truth is from your Lord: Let him who will believe, and let him who will, reject (it)."

The Qur'an also makes clear that God will judge human beings not on the basis of what they profess but on the basis of their belief and righteous conduct, as indicated by Surah 2: *Al-Baqarah:* 62 which states: "Those who believe (in the Qur'an) and those who follow the Jewish (scriptures), and the Christians and the Sabians, any who believe in God and the Last Day, and work righteousness, shall have their reward saith the Lord; on them shall be no fear, nor shall they grieve."

The Qur'an recognizes the right to religious freedom not only in the case of other believers in God, but also in the case of non-believers in God (if they are not aggressive toward Muslims). For instance, Surah 6: *Al-An'am:* 108 states:

> Revile not ye those whom they call upon besides God, lest they out of spite revile God in their ignorance. Thus have We made alluring to each people its own doings. In the end will they return to their Lord, and We shall then tell them the truth of all that they did.

In the context of the human right to exercise religious freedom, it is important to mention that the Qur'anic dictum, "Let there be no compulsion in religion" (Surah 2:*Al-Baqarah:* 256) applies not only to non-Muslims but also to Muslims. While those who renounced Islam after professing it and then engaged in "acts of war" against Muslims were to be treated as enemies and aggressors, the Qur'an does not prescribe any punishment for non-profession or renunciation of faith. The decision regarding a person's ultimate destiny in the hereafter rests with God.

This right to freedom includes the right to be free to tell the truth. The Qur'anic term for truth is *"Haqq"* which is also one of God's most important attributes. Standing up for the truth is a right and a responsibility which a Muslim may not disclaim even

in the face of the greatest danger or difficulty (Surah 4: *An-Nisa':* 135). While the Qur'an commands believers to testify to the truth, it also instructs society not to harm persons so testifying (Sura 2: *Al-Buqarah:* 282).

Right to Privacy

The Qur'an recognizes the need for privacy as a human right and lays down rules for protecting an individual's life in the home from undue intrusion from within or without.

Right to Protection from Slander, Backbiting, and Ridicule

The Qur'an recognizes the right of human beings to be protected from defamation, sarcasm, offensive nicknames, and backbiting (Surah 49: *Al-Hujurat:* 11-12). It also states that no person is to be maligned on grounds of assumed guilt and that those who engage in malicious scandal-mongering will be grievously punished in both this world and the next (Surah 24: *An-Nur:* 16-19). Urging throughout that human beings should treat others with sensitivity and compassion, the Qur'an points out in Surah 4: *An-Nisa':* 148-149:

> God loves not that evil should be noised abroad in public speech, except where injustice hath been done; for God is He who heareth and knoweth all things. Whether ye publish a good deed or conceal it or cover evil with pardon, verily God doth blot out (Sins) and hath power (In the judgment of values).

Right to Acquire Knowledge

The Qur'an puts the highest emphasis on the importance of acquiring knowledge. That knowledge has been at the core of the Islamic world view from the very beginning is attested to by Surah 96: *Al- 'Alaq:* 1-5, which Muslims believe to the first revelation received by the Prophet Muhammad. This passage reads:

> Proclaim! (or Read) in the name of thy Lord and Cherisher, who created, created man, out of a (mere) clot of congealed blood. Proclaim! And the Lord is Most Bountiful. He who taught the (use of) the pen taught man that which he knew not.

Asking rhetorically if those without knowledge can be equal to those with knowledge (Surah 39: *Az-Zumar:* 9), the Qur'an exhorts believers to pray for advancement in knowledge (Surah 20: *Ta-Ha:* 114). The famous prayer of the Prophet Muhammad was "Allah grant me knowledge of the ultimate nature of things" and one of the best known of all traditions *("ahadith")* is "Seek knowledge even though it be in China."

According to the Qur'anic perspective, knowledge is a prerequisite for the creation of a just world in which authentic peace can prevail. The Qur'an emphasizes the importance of the pursuit of learning even at the time, and in the midst, of war, as indicated by Surah 9: Al-*Tawbah:* 122, which states:

> With all this, it is not desirable that all of the believers take the field (in time of war). From within every group in their midst some shall refrain from going to war, and shall devote themselves (instead) to acquiring a deeper knowledge of the Faith, and (thus be able to) teach their home-coming brethren, so that these (too) might guard themselves against evil.

Right to Leave One's Homeland Under Oppressive Conditions

According to Qur'anic teaching, a Muslim's ultimate loyalty must be to God and not to any territory. To fulfill his Prophetic mission, the Prophet Muhammad decided to leave his place of birth, Mecca, and emigrated to Medina. This event *("Hijrah")* has great historical and spiritual significance for Muslims who are called upon to move away from their place of origin if it becomes an abode of evil and oppression where they cannot fulfill their obligations to God or establish justice. In a powerful passage in Surah 4: *An-Nisa':* 97-100, the Qur'an states:

> When angels take the souls of those who die in sin against their souls, they say: "In what (plight) were ye?" They reply: "Weak and oppressed were we in the earth." They say: "Was not the earth of Allah spacious enough for you to move yourselves away (from evil)?" Such men will find their abode in Hell—What an evil refuge!—except those who are (really) weak and oppressed—men, women, and children who have no means in their power, nor (a guide post) to direct their way. For these, there is hope that Allah will forgive for Allah doth blot out (sins) and forgive again and again. He who forsakes his home in the cause of Allah, finds in the earth many a refuge, wide and spacious: Should he die as a refugee from home from Allah and His Messenger, his reward becomes due and sure with Allah: And Allah is Oft-Forgiving, Most Merciful.

Right to Develop One's Aesthetic Sensibilities and Enjoy the Bounties Created by God

As pointed out by Muhammad Asad, "By declaring that all good and beautiful things of life, i.e., those which are not expressly

prohibited are lawful to the believers, the Qur'an condemns, by implication, all forms of life-denying asceticism, world-renunciation and self-mortification." There is a great difference between the spirit of classical Greece with its contempt for sense-perception and the Qur'an which regards physical phenomena as "Signs of God." Some of the most memorable passages in the Qur'an point to the insight and wisdom which can be gained by reflecting on the myriad manifestations of God's creative activity all around us. The Qur'an tells Muslims that monasticism was not prescribed by God (Surah 57: *Al-Hadid:* 27). Though they are to remember that the hereafter is more important than the life on earth, Muslims are told to reject the negative view that it is wrong to enjoy the beauty and bounty of God's creation.

In Surah 7: *Al-A'raft* 32, the Qur'an states:

> Say: "Who is there to forbid the beauty which God has brought forth for His creatures, and the good things from among the means of sustenance?"
>
> Say: "they are (lawful) in the life of this world unto all who have attained to faith-to be theirs alone on Resurrection Day."

The right to develop one's aesthetic sensibilities so that one can appreciate beauty in all its forms, and the right to enjoy what God has provided for the nurture of humankind, are, thus, rooted in the life-affirming vision of the Qur'an.

Right to Sustenance

As pointed out by Surah 11: *Hud:* 6, every living creature depends for its sustenance upon God. A cardinal concept in the Qur'an which underlies the socio-economic-political system of Islam is that the ownership of everything belongs not to any person, but to God. Since God is the universal creator, every creature has the right to partake of what belongs to God (Surah 6: *Al-An am*: 165; Surah 67: *Al-Mulk:* 15). This means that every human being has the right to a means of living and that those who hold economic or political power do not have the right to deprive others of the basic necessities of life by misappropriating or misusing resources which have been created by God for the benefit of humanity in general.

Right to Work

According to Qur'anic teaching, every man and woman has the right to work, whether the work consists of gainful employment

or voluntary service. The fruits of labor belong to the one who has worked for them—regardless of whether it is a man or a woman. As Surah 4: *An-Nisa':* 32 states: "to men is allotted what they earn, and to women what they earn."

Right to "The Good Life"

The Qur'an upholds the right of the human being not only to life but to "the good life." This good life, made up of many elements, becomes possible when a human being is living in a just environment. According to Qur'anic teaching, justice is a prerequisite for peace, and peace is a prerequisite for human development. In a just society, all the earlier-mentioned human rights may be exercised without difficulty. In such a society, other basic rights such as the right to a secure place of residence, the right to the protection of one's personal possessions, the right to protection of one's covenants, and the right to move freely, also exist.

Other Rights

Since Qur'anic teaching embraces every aspect of human life, it contains references to more human rights than can be mentioned in this short summary. Reference has been made in the foregoing account to the human rights which figure most importantly in the Qur'an and which continue to be of on-going interest and importance in contemporary Muslim societies. In addition to the rights mentioned in the foregoing, reference may also be made to the following: (1) the right to social and judicial autonomy for minorities; (2) the right to protection of one's holy places; and (3) the right to return to one's spiritual center. According to Surah 3: *Al-'Imran:* 96, Surah 5: *Al-Ma'idah:* 97, and Surah 22: *Al-Hajj:* 25, the *"Ka'ba"* in Mecca is the spiritual center of all humankind. It was here that the Prophet Ibrahim proclaimed the pilgrimage to all humankind, as pointed out by Surah 2: *Al-Baqarah:* 125, Surah 3: *Al-'Imran:* 96, and Surah 22: *Al-Hajj:* 26.

Rights of Women : Qur'anic Ideals Versus Muslim Practice

Muslim men never tire of repeating that Islam has given more rights to women than has any other religion. Certainly, if by "Islam" is meant "Qur'anic Islam," the rights that it has given to women are, indeed, impressive. Not only do women partake of all the general rights mentioned in the foregoing section, they are also the subject of much particular concern in the Qur'an. Underlying

much of the Qur'an's legislation on women-related issues is the recognition that women have been disadvantaged persons in history to whom justice needs to be done by the Muslim *"ummah."* Unfortunately, however, the cumulative (Jewish, Christian, Hellenistic, Bedouin, and other) biases which existed in the Arab-Islamic culture of the early centuries of Islam infiltrated the Islamic tradition, largely through the Hadith literature, and undermined the intent of the Qur'an to liberate women from the status of chattels or inferior creatures and make them free and equal to men.

A brief review of Muslim history and culture brings to light many areas in which—Qur'anic teaching notwithstanding—women continued to be subjected to diverse forms of oppression and injustice, often in the name of Islam, and, what is far worse, in the name of a just, merciful, and compassionate God. While the Qur'an, because of its protective attitude toward all downtrodden and oppressed classes of people, appears to be weighted in many ways in favor of women, many of its women-related teachings have been used in patriarchal Muslim societies against, rather than for, women. Muslim societies, in general, appear to be far more concerned with trying to control women's bodies and sexuality than with their human rights. Many Muslims when they speak of human rights either do not speak of women's rights at all, or are mainly concerned with how a woman's chastity may be protected. (They are apparently not very worried about protecting men's chastity).

Women are the targets of the most serious violations of human rights which occur in many Muslim societies. Muslims say with great pride that Islam abolished female infanticide; true, but it must also be mentioned that one of the most common crimes in a number of Muslim countries (for example Pakistan) is the murder of women by their husbands. These so-called "honor-killings" are, in fact, extremely dishonorable and are frequently used to camouflage other kinds of crimes.

Female children are discriminated against from the moment of birth, for it is customary in Muslim societies to regard a son as a gift, and a daughter as a trial, from God. Therefore, the birth of a son is an occasion for celebration while the birth of a daughter calls for commiseration if not lamentation. Many girls are married when they are still minors, even though marriage in Islam is a

contract and presupposes that the contracting parties are both consenting adults. Even though so much Qur'anic legislation is aimed at protecting the rights of women in the context of marriage women cannot claim equality with their husbands. The husband, in fact, is regarded as his wife's gateway to heaven or hell and the arbiter of her final destiny. That such an idea can exist within the framework of Islam—which, in theory, rejects the idea of there being any intermediary between a believer and God—represents both a profound irony and a great tragedy.

Although the Qur'an presents the idea of what we today call a "no-fault" divorce and does not make any adverse judgments about divorce Muslim societies have made divorce extremely difficult for women, both legally and through social penalties. Although the Qur'an states clearly that the divorced parents of a minor child must decide by mutual consultation how the child is to be raised and that they must not use the child to hurt or exploit each other, in most Muslim societies, women are deprived of both their sons (generally at age 7) and their daughters (generally at age 12). It is difficult to imagine an act of greater cruelty than depriving a mother of her children simply because she is divorced. Although polygamy was intended by the Qur'an to be for the protection of orphans and widows, in practice Muslims have made it the Sword of Damocles which keeps women under constant threat. Although the Qur'an gave women the right to receive an inheritance not only on the death of a close relative, but also to receive other bequests or gifts during the lifetime of a benevolent caretaker, Muslim societies have disapproved greatly of the idea of giving wealth to a woman in preference to a man, even when her need or circumstances warrant it. Although the purpose of the Qur'anic legislation dealing with women's dress and conduct, was to make it safe for women to go about their daily business (since they have the right to engage in gainful activity as witnessed by Surah 4: *An-Nisa':* 32) without fear of sexual harassment or molestation, Muslim societies have put many of them behind veils and shrouds and locked doors on the pretext of protecting their chastity, forgetting that according to the Qur'an confinement to their homes was not a normal way of life for chaste women but a punishment for "unchastity."

Despite the fact that women such as Khadijah and "A'ishah (wives of the Prophet Muhammad) and Rabi'a al-Basri (the

outstanding woman Sufi) figure significantly in early Islam, the Islamic tradition has, by and large, remained rigidly patriarchal until now, prohibiting the growth of scholarship among women particularly in the realm of religious thought. This means that the sources on which the Islamic tradition is mainly based have been interpreted only by men who have arrogated to themselves the task of defining the ontological, theological, sociological, and eschatalogical status of Muslim women. It is hardly surprising that until now the majority of Muslim women have accepted this situation passively, almost unaware of the extent to which their human (also Islamic, in an ideal sense) rights have been violated by their male-dominated and male-centered societies. Kept for centuries in physical, mental, and emotional bondage, and deprived of the opportunity to actualize their human potential, even the exercise of analyzing their personal experiences as Muslim women is, perhaps, overwhelming for these women. (Here it needs to be mentioned that while the rate of literacy is low in many Muslim countries, the rate of literacy of Muslim women, especially those who live in rural areas where most of the population lives, is amongst the lowest in the world.)

Much of what has happened to Muslim women becomes comprehensible if one keeps one fact in mind: Muslims, in general, consider it a self-evident fact that women are not equal to men, who are "above" women or have a "degree of advantage" over them. There is hardly anything in a Muslim woman's life that is not affected by this belief; hence it is vitally important, not only for theological reasons but also for pragmatic ones, to subject it to rigorous scholarly scrutiny and attempt to identify its roots.

The roots of the belief that men are superior to women lie, in my judgment, in three theological assumptions: (1) that God's primary creation is man, not woman, since woman is believed to have been created from man's rib, and is, therefore, derivative and secondary ontologically; (2) that woman, not man, was the primary agent of what is customarily referred to as "Man's Fall" or the expulsion of man from the Garden of Eden, and hence "all daughters of Eve" are to be regarded with hatred, suspicion, and contempt; and (3) that woman was created not only *from* man, but also *for* man, which makes her existence merely instrumental and not of fundamental importance.

I have been engaged for more than a decade in research which offers compelling proof on the basis of an analysis of the Qur'anic

text and teaching, that the three assumptions on which the superstructure of the idea of man's superiority to woman has been erected, not only in the Islamic but also in the Jewish and Christian tradition, are unwarranted. First, the myth that Eve was created from the rib of Adam has no basis whatever in the Qur'an which, in the context of human creation, speaks always in completely egalitarian terms. In none of the thirty or so passages that describe the creation of humanity (designated by generic terms such as *"an-nas," "al-insan,"* and *"al-bashar"*) by God in a variety of ways, is there any statement which asserts or suggests that man was created prior to woman or that woman was created from man. If woman and man were created equal by God—and this is clearly and unambiguously the teaching of the Qur'an—they cannot become unequal *essentially* at a subsequent time, since God is the ultimate arbiter of value. This means that the inequality of women and men in almost all Muslim (and many other) societies cannot be seen as having been willed by God, but must be seen as a perversion of God's intent in creation. All this notwithstanding, the ordinary Muslim continues to believe, with ordinary Jews and Christians, that Adam was God's primary creation and that Eve was made from Adam's rib, hence can never be equal to him.

Second, in the context of the story of the "Fall," it needs to be pointed out that the Qur'an provides no basis whatever for asserting, suggesting, or implying that *"Hawwa"* (Eve) was tempted by *"ash-Shaitan"* (the Satan), in turn tempted and deceived Adam, and led to his expulsion from *"al-jannah"* (the Garden). Yet many Muslim commentators have ascribed the primary responsibility for man's "Fall" to woman and have branded her as "the devil's gateway." Though no "Fall" occurs in the Qur'anic narrative, as pointed out by Iqbal, and though there is no doctrine of original sin in Islam, patriarchal Muslim culture has used the Biblical myth to perpetuate the myth of feminine evil, particularly in order to control women's sexuality which it associates, like St. Augustine, with "fallenness."

Third, the Qur'an, which does not discriminate against women in the context of creation or the "Fall" story, does not support the view—held by many Muslims, Christians, and Jews—that woman was created not only *from* man, but also *for* man. That God's creation as a whole is "for just ends" (Surah 15: *Al-Hijr:* 85) and not "for idle sport" (Surah 21: *Al-Anbiya:* 16) is one of the major themes of the Qur'an. Humanity, fashioned "in the best of moulds"

(Surah 95: *At-Tin:* 4) has been created in order to serve God (Surah 51: *Adh-Dhariyat:* 56). According to the Qur'an, service to God cannot be separated from service to humankind, or, in Islamic terms, believers in God must honor both *"Haquq Allah"* (rights of God) and *"Haquq al-'ibad"* (rights of creatures). Fulfillment of one's duties to God and humanity constitutes the essence of righteousness. That men and women are equally called upon by God to be righteous and will be equally rewarded for their righteousness is stated unambiguously in a number of Qur'anic verses. Not only does the Qur'an make it clear that man and woman stand absolutely equal in the sight of God, but also they are "members" and "protectors" of each other. In other words, the Qur'an does not create a hierarchy in which men are placed above women (as they are by many formulators by the Christian tradition), nor does it pit men against women in an adversary relationship. They are created as equal creatures of a universal, just and merciful God whose pleasure it is that they live—in harmony and righteousness—together.

In spite of the Qur'anic affirmation of the equality of man and woman, Muslim societies in general have never regarded men and women as equal, particularly in the context of marriage. Fatima Mernissi's observations on the position of a Muslim woman in relation to her family in modern Morocco apply, more or less, to Muslim culture generally:

> One of the distinctive characteristics of Muslim sexuality is its territoriality, which reflects a specific division of labor and a specific conception of society and of power. The territoriality of Muslim sexuality sets ranks, tasks and authority patterns. Spatially confined the woman was taken care of materially by the man who possessed her, in return for her total obedience and her sexual and reproductive services. The whole system was organized so that the Muslim "ummah" was actually a society of male citizens who possessed among other things the female half of the population. . . . Muslim men have always had more rights and privileges than Muslim women, including even the right to kill their women. . . . The man imposed on the woman an artificially narrow existence, both physically and spiritually.

Underlying the rejection in Muslim societies of the idea of man-woman equality are the three deeply-rooted beliefs mentioned

earlier, namely, that women are inferior to men in creation (having been created from a crooked rib), and in righteousness (having helped ash-Shaitan in defeating God's plan for Adam), and in having been created mainly to be of use to men who are superior to them.

Woman and man, created equal by God and standing equal in the sight of God, have become very unequal in Muslim societies. The Qur'anic description of man and woman in marriage reads thus: "They are your garments/And you are their garments" (Surah 2: *Al-Baqarah:* 187) implies closeness, mutuality, and equality. However, Muslim culture has reduced many, if not most, women to the position of puppets on a string, to slave-like creatures whose only purpose in life is to cater to the needs and pleasures of men. Not only this, it has also had the audacity and the arrogance to deny women direct access to God. It is one of Islam's cardinal beliefs that each person—man or woman—is responsible and accountable for his or her individual actions. How can the husband become the wife's gateway to heaven or hell? How can he become the arbiter not only of what happens to her in this world but also of her ultimate destiny? Surely such questions must arise in the minds of Muslim women, but so far they have not been asked aloud. My own feeling is that not only Muslim men, but also Muslim women—with a few exceptions—are afraid to ask questions the answers to which are bound to threaten the existing balance of power in the domain of family relationships in most Muslim societies.

Despite everything that has gone wrong with the lives of countless Muslim women through the ages due to patriarchal Muslim culture, I believe strongly that there is hope for the future. There are indications from across the world of Islam that an increasing number of Muslims are beginning to reflect seriously upon the teachings of the Qur'an as they become disenchanted with capitalism, communism, and Western democracy. As this reflection deepens, it is likely to lead to the realization that the supreme task entrusted to human beings by God, of being God's deputies on earth, can only be accomplished by establishing justice which the Qur'an regards as a prerequisite for authentic peace. Without the elimination of the inequities, inequalities, and injustices that pervade the personal and collective lives of human beings, it is not possible to talk about peace in Qur'anic terms. It

is important to note that there is more Qur'anic legislation pertaining to the establishment of justice in the context of family relationships than on any other subject. This points to the assumption implicit in much Qur'anic legislation, namely, that if human beings can learn to order their homes justly so that the human rights of all within its jurisdiction—children, women, and men—are safeguarded, then they can also order their society and the world at large, justly. In other words, the Qur'an regards the home as a microcosm of the *"ummah"* and the world community, and emphasizes the importance of making it "the abode of peace" through just living.

10

Religious Dissidents Under Classical and Contemporary Islamic Law

With the possibility of a final settlement to the Arab-Israeli conflict on the horizon, with the realignment of Muslim states and movements in the wake of the Soviet Union's demise and the Persian Gulf War, and with fears of "Islamic fundamentalism" replacing "the Communist threat" in the popular Western psyche, there is hardly a more timely topic than that of religious dissent in Islam. This chapter examines the doctrinal and historical treatment of those who deviated from Islamic orthodoxy, either deliberately or inadvertently, in both the pre-modern and modern eras. Given the frequent difficulty in ascertaining the true motives behind religious persecution, the topic by necessity also considers how Islam and Islamic law have been used to justify repression of actual and perceived political opponents to Muslim regimes. As Islam scholar Ann Elizabeth Mayer notes, Islam is only one factor in the reception of human rights in the Middle East. One must distinguish between the prescriptive norms of the religion and the actual practices of modern Muslim states, which may be motivated by multiple factors, including nationalism and Muslim ambivalence about Westernization.

It is hoped that the norm/practice distinction—as well as the evolutionary changes over close to 1400 years of Islamic history—can be drawn by careful separation of the classical origins and the contemporary manifestations of the Islamic approach to religious dissent. This chapter is accordingly divided into three major parts. Part I raises methodological issues, inherent in a study of this kind, concerning the use of definitions, its scope and source material, and the standards of international and regional law by which religious human rights in the Islamic world are implicitly, if not explicitly, judged. Part II examines religious dissent under classical Islamic law, beginning with an overview of the structure of Islamic law, and followed by the specialized topics of apostates and blasphemers; heretics and renegades; and non-Muslims and infidels. Part III explores the same set of specialized topics under contemporary Islamic law, prefaced by a discussion of constitutional, statutory, and international law in modern Islamic states. The chapter concludes by reference to the conflict between secularism and Islamic revivalism (often mislabeled "fundamentalism") over the future identity of Muslim states.

Methodological Issues

Given the nature of such a study as this—an unavoidably selective survey of Islamic religious principles, policies, and practices by a Western-educated, non-Muslim, non-Arabic speaking, Jewish non-cleric—it is important to begin by identifying the premises, preconceptions, and other strictures that might underlie an author's perspective (some would say bias). The most obvious of these concern terminology.

Definitions

Some of the terms used quite habitually within the human rights movement present a special perplexity in the context of Islam.

Dissident—For instance, the word "dissident" (literally meaning, "to sit apart," from the Latin *dis* and *sid*) became popular during the 1970s as a Western label for activists in the Soviet and Eastern European human rights movements. More than simply adherents to a form of opposition, deviance or non-conformity, dissidents invoke a special "dedication to liberty of conscience, intellectual freedom, and the right of free expression," Soviet dissidents themselves defined the term as "someone who disagrees in some measure with the ideological, political, economic or moral

foundation that society rests on," and as "those people (a small minority) who refused to accept the basic principle of totalitarianism—suppression of the individual's right." Though their specific causes differed, the various Soviet and Eastern European dissident movements shared common methods of action: public expression of their views, non-violence, and insistence on compliance with international law.

These very definitions reveal their Western, secular roots. They derive from a liberal belief in individualism, including the separation of public and private realms of thought and action, and in the right to disagree with the collective authority. By contrast, Islam, for all its internal cultural and political diversity, is rooted in a radically different consciousness toward community and authority. "Islam," which literally means "submission to the will of God" (and "Muslim," "one who submits"), provides a comprehensive code of law, covering the social, political, and economic life of the community as well as rituals of worship. There is no separation of "mosque and state" in Islam. Religion is pervasive, not compartmentalized into one day of the week as in most modern Western societies. Moreover, as Lisa Anderson has written of the Middle East, "Opposition has little place in a system where the ruler is accountable only to God and where it is the ruler's responsibility to guarantee the continued harmonious integration of each individual and group into the community." In this context, is the study of "religious dissidents in Islam" another legacy of Western colonialism, if not an oxymoron?

As this chapter will show, there is indeed an Islamic tradition of individual dissent, as well as more collective reform and revival movements. (Some students of Islam identify a right, or even a duty, of disobedience to a ruler who has transgressed God's law.) Moreover, in order to include within its scope non-Muslims, who by their very existence "sit apart" from the Muslim world, this study will dispense with the qualification that dissidents must deliberately and publicly express their opposition. Simply by their presence, and their commonplace desire to live as a distinctive community, non-Muslims are considered "non-harmonious" and accordingly treated under separate rules of Islamic law.

At the other end of the spectrum, what of radical movements such as Islamic Jihad which deliberately resort to violence as a method of opposition? Are they to be considered to fall within the category of "dissident"—assuming that violence is indeed justified

under Islamic law? In demarcating the term "dissident," this chapter follows the definition of "prisoner of conscience" adopted by the non-governmental human rights organization, Amnesty International, which excludes persons who have "used or advocated violence." This exclusion is consistent with the dissident methodology employed by the Soviet and Eastern European prototypes. However, like Amnesty, this author opposes the use of torture, extrajudicial execution, "disappearance," disproportional punishments or other unfair treatment of any person, regardless of whether he or she has used or advocated violence. That is, no government, Muslim or otherwise, is justified in abusing the human rights of persons who oppose it, even if they adopt the use of violence in the course of such opposition. While states are entitled—in fact, even obligated—to protect their citizenry and the public order against acts of violence, they are still required to give due process to the suspected perpetrators.

Religious—The next term, "religious," as a modifier of dissent and dissident, raises a host of questions. To avoid the conundrum over what exactly constitutes religion, this essay will adopt the approach of international law, which includes both "religion and belief" in the same set of provisions. "Religion and belief" includes theistic, non-theistic, and atheistic beliefs, as well as the right not to profess any religion or belief. Moreover the phrase is not limited to traditional or ancient religions, so it applies to relatively new faiths such as the Baha'i.

More troublesome is the question of what constitutes "religious dissent" in societies which organically combine political and religious solidarity, rejecting the separation of church and state commonly found in countries with predominantly Christian populations. For instance, are the Shi'ites of Southern Iraq in fact religious dissenters from the nominally Sunni regime of Saddam Hussein, or really a geo-political threat to his rule, given their affinity with Iran? When is political opposition legitimately labeled heresy or apostasy? Similarly, how does one separate Islamic revival movements from Pan-Arab or Pakistani or Indonesian nationalism, or from anti-Westernization, when in each instance Islam may in fact have been used as a symbol of national or cultural unity rather than an integral part of group ideology?

Each of these questions will be kept in mind at relevant stages of this inquiry. As stated above, the study will examine the use of

religious justifications for repressive measures, even if the actual motive is political or otherwise secular.

Other Terms—By necessity when translating from one cultural context to another, terms can only be used in a rough approximation of equivalency. While it may be technically inaccurate in the context of Islam to use terms such as "blasphemy" and "fundamentalism," which have particular Christian connotations, English-speaking readers can be forewarned to approach these parallels as inexact similes.

Finally, for purposes of this essay the term "classical Islam" will refer to the period from 622 C.E., when the Prophet Muhammed and his followers left Mecca to establish the first Islamic community in Medina, until the tenth century, with the "closing of the door of *ijtihad*" (reasoning and interpretation of Islamic law). While "contemporary Islam" can be said to have begun in the mid-nineteenth century, when reformers again called for the "reopening of the door of *ijtihad*" (and which, not coincidentally, also marked the beginning of European colonialism), for the sake of brevity, the "contemporary" period will for the most part in this study be confined to the era of independent nation-states, from approximately the end of World War II to the present, and most frequently, the last fifteen years, beginning with the 1979 Islamic revolution in Iran.

Scope and Sources

The Muslim world, which consists of one billion people constituting the majority population in over forty states, ranging beyond the Middle East and North Africa to South Asia and the non-Slavic former Soviet republics of Central Asia, is by no means a cultural, racial, linguistic, or jurisprudential monolith. Over as important a matter as the duty of *jihad*, for instance, interpretations vary widely: it can mean the moral struggle to follow the path of God, or the necessity of armed struggle against the enemies of Islam, or various postures in between. The most militant view is itself restricted in some interpretations only to defensive battles, while others consider armed *jihad* equally just in an offensive posture. State structures themselves vary from those officially proclaimed as Islamic, where Shari'a (Islamic law) is a formal source of law, to secular countries with majority Muslim populations; where Islamic norms may operate in an indirect manner. While most Islamic regimes follow the Sunni schools of

Islamic jurisprudence, Iran is not the only country with a majority of Shi'ites.

While this wide scope poses practical problems for a chapter-length survey, it attempts to avoid the resort to stereotypes and demonized caricatures, simplistic equations of Islam with violence, and other examples of the "ignorance of triumphant imagination." It is also important to use a balance of Muslim and non-Muslim sources to obviate both Western biases and Eastern apologetics.

In one sense, the scope of this study will be artificial: because other chapters in this volume cover women and children in Islamic law, most of the "dissidents" described here will, by default, be adult males. This constriction is not incongruent with the nature of Islamic societies, however, given the traditional prohibition on women's ability to engage in public activities and discourse, essential elements of the dissident.

Legal Standards

In the course of a study of this kind, judgments and critical appraisals will inevitably be made. It is proper, therefore, to identify those external standards, which the evaluator relies on as the basis for judgment. Those are the provisions of regional and international human rights law pertaining to religious freedom and the rights of religious minorities. The international law of religious freedom encompasses both "hard"law, that is, norms that are legally binding on states either because they have ratified them or because they have been so widely adopted as to have risen to the level of customary international law, and "soft" law, those emerging norms that are hortatory though not yet legally binding, but because of endorsement by respected and representative groups, are likely to become so in the future. Where they codify already existing norms of customary international law, it is expected that "soft" law provisions are to be complied with. Included here in the discussion of "soft" law are two regional declarations adopted by intergovernmental organizations composed of Muslim states, in addition to one regional treaty formally adopted by African states. The two most relevant international documents have been discussed elsewhere in this volume and its sequel and will therefore only be mentioned briefly here.

The International Covenant on Civil and Political Rights, a treaty which entered into force in 1976, has been adopted by 125

countries, including 23 Muslim states. Freedom of thought, conscience, and religion are guaranteed by article 18. Another provision of this same Covenant, article 27, prohibits states from denying religious minorities the right, in community with other group members, to enjoy their own culture, profess and practice their own religion, or to use their own language.

The Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, a United Nations General Assembly resolution adopted in 1981 (without a vote), extends in greater detail the relevant norms of the International Covenant. The UN's Special Rapporteur on this issue, Elizabeth Odio Benito, has concluded that the phrase "intolerance and discrimination based on religion and belief" encompasses not only discrimination which infringes on freedom of thought, conscience, religion, and belief, "but also acts which stir up hatred against, or persecution of, such persons or groups." After closely examining the Declaration, the Covenant, and a comparable provision on religious freedom in the Universal Declaration of Human Rights, the Special Rapporteur also concluded that all three of these international documents mean "that everyone has the right to leave one religion or belief and to adopt another, or to remain without any at all." As discussed below, these conclusions are relevant to the widely known Islamic belief that a Muslim who rejects Islam is an apostate, for whom the penalty is often said to be death.

A regional treaty that constitutes "hard law" in a region that includes Muslim states is the Organization of African Unity's African Charter on Human and Peoples' Rights, which entered into force in 1986. Article 8 states: "Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms." The Charter also imposes on every individual, in article 28, "the duty to respect and consider his fellow beings without discrimination, and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance."

Although it is not binding law and has not been widely commented on, the Organization of the Islamic Conference adopted the Cairo Declaration on Human Rights in Islam in 1990. Article 10 states: "Islam is the religion of unspoiled nature. It is prohibited to exercise any form of compulsion on man or to exploit his

poverty or ignorance in order to convert him to another religion or to atheism." While the Declaration announces in its last article that it is based solely on the Shari'a, its numerous references to "every human being" seem to indicate that it applies to the treatment of non-Muslims as well as of Muslims. However, the combination of these two sentences in article 10 may mean that it is prohibited to use compulsion or exploitation to convert someone from Islam to another religion or atheism, but not the reverse.

Other Cairo Declaration provisions which similarly appear to operate in one direction only include article 22(b): "Everyone shall have the right to advocate what is right, and propagate what is good, and warn against what is wrong and evil according to the norms of Islamic Shariah"; and the less ambiguous article 22(a): "Everyone shall have the right to express his opinion freely in such manner as would not be contrary to the principles of the Shariah." The Declaration contains no explicit references to the rights of non-Muslims, nor does it include a general right to "freedom of thought, conscience, and religion" as found in the international agreements. Perhaps not so surprisingly, the Cairo Declaration has been strongly endorsed by Iran and Saudi Arabia but has not received widespread support in the Muslim world generally.

By contrast, the Universal Islamic Declaration of Human Rights ("UIDHR"), adopted by the Islamic Council in 1981, does contain the references found in the discourse of international law. Article X, titled "Rights of Minorities," states: "The Quranic principle 'There is no compulsion in religion' shall govern the religious rights of non-Muslim countries. In a Muslim country, religious minorities shall have the choice to be governed in respect of their civil and personal matters by Islamic Law or by their own laws." Article XIII provides every person with the right to freedom of conscience and worship in accordance with one's religious beliefs, while article XII(e) forbids ridiculing, holding in contempt, or inciting public hostility against the religious beliefs of others.

The UIDHR is not without its own qualified passages. Although article XII(a) provides every person with the right to express his thoughts and beliefs, it is only "so long as he remains within the limits prescribed by the Law," which, in the Arabic version, reads, "the Shariah," the particular word for Islamic law. Moreover, no one "is entitled to disseminate falsehoods or to circulate reports, which may outrage public decency, or to indulge

in slander, innuendo or to cast defamatory aspersions on other persons." These limitation provisions may explain why the Islamic Council did not intervene on behalf of author Salman Rushdie when the Ayatollah Khomenei ordered his execution in a 1989 *fatwa* (formal juristic opinion).

Like the Cairo Declaration, the UIDHR was drafted in response to the purported tendency among Western rights advocates and scholars to "exclude Islam from the cultural domain where human rights were conceived and proclaimed and where they retain meaning." (Indeed, the UIDHR's seemingly oxymoronic title conveys either a deliberate ambiguity or a ridicule or the term "universal.") While on first glance both documents appear to replicate the international agreements, on closer review they diverge quite self-assuredly, if subtly. Whether conflicts between international and regional norms are to be decided in favor of the former or latter has not been formally adjudicated within international human rights law. Indeed, as the next section of this chapter demonstrates, this question reflects one of the most hotly contested and unresolved disputes in the field of human rights. For these purposes, we should note that although the Cairo and Universal Islamic Declarations are not legally binding, they do portray different approaches to the reconciliation of Islamic law with international human rights law. To the extent that they conflict, they illustrate the lack of a consensus within even the modern Islamic world on the question of religious human rights.

Westernization and Cultural Relativism

The underlying tension between divergent international and regional norms of what constitutes human rights surfaced quite unmistakably at the U.N.'s World Conference on Human Rights, held in Vienna in the summer of 1993. Not surprisingly, Muslim countries—most prominently Iran, Syria, Yemen, Pakistan, Indonesia, and Malaysia—among other developing nations, loudly attacked the popular Western notion that human rights are universal. In preparatory regional meetings held in advance of the Conference, African states declared that "no ready-made model [of human rights] can be prescribed at the universal level since the historical and cultural realities of each nation and the traditions, standards and values of each people cannot be disregarded," while Asian states implicitly criticized Western hegemony in the statement that "the promotion of human rights should be encouraged by cooperation and consensus and not through

confrontation and the imposition of incompatible values." Speaking for the proponents of universalism, the United States Secretary of State responded to these challenges: "We cannot let cultural relativism become the last refuge of repression."

Indeed, there is a strong correlation between the advocacy of cultural relativism and abuse of human rights. As noted by Mayer, many Muslim states "had been guilty of egregious violations of human rights. It was therefore in their political interest to find rationales for asserting the nonapplicability of international rights norms." Yet it must be borne in mind that the repressive policies of militant Islamic regimes have been imposed top-down, by the unelected (even where they claim to be "the elect"). They are not by any means a reflection of the will of the Muslim people. Torture and summary executions are not an Islamic tradition in the legal sense any more than they are "Catholic" when they occur in Latin American countries. For every Salman Rushdie condemned in the East, the West has had a Socrates, a Galileo, a Voltaire, and, in the present century no less, a James Joyce, a D.H. Lawrence, and a Henry Miller.

Thus, governmental strategies that stifle free expression, ban access to outside information, and punish dissent "are not in any way distinctively 'Islamic,' " despite efforts by Muslim regimes to rationalize and insulate their abuses through the invocation of ostensibly authoritative Islamic doctrines. Furthermore, to insist—as Islam's Western apologists often do—that international human rights norms do not apply to Muslims is to adopt a patronizing, racist stereotype that Muslims are barbaric and inferior to Westerners, "undeserving" of international law's protection, or that Islam is monolithic and that repression is the Muslim norm.

Because of the apparent failures of secular liberalism and nationalist socialism—both movements of Western origin—to propel Muslim states into an economic and political par with the West, the current retreat of the Islamic world into a defensive, reactive, and "fundamentalist" mode, particularly one that emphasizes cultural distinctiveness, is not at all in-explicable. Frustration and feelings of powerlessness are often channeled into a radical, even militant backlash against the external forces that can be blamed for the defeat. Where, as here, the backlash appears to be directed against Western domination that is not coincidentally secular, Muslim disdain for the "Godless," culturally and ethically "barren" West is almost inevitable. Hence, the emphasis on the

inseparability of politics and religion, perhaps the most central characteristic of Islam.

But cultural diversity is not incompatible with human rights; it is one of the byproducts, one of the purposes of human rights, particularly of religious human rights. Pluralism is inseparable from the liberty that induces it. When universalists invoke international human rights law, the focus is as much on the "law" and the "human" as it is on the supposed global consensus that achieved it. What is universal in all societies is the need for the rule of law and the belief in human dignity. What differs from culture to culture is how and why one gets to those conceptions.

One purpose of this chapter is to demonstrate that Islam is itself culturally relative and pluralistic. It has always been subject to various interpretations, schools of thought, sects and subsects, depending on what Muslims of any given time and place have believed. Moreover, like most religions, it has evolved over the centuries not only due to internal debate, but also because of interactive influences from the cultures it enveloped, whether Greek, Christian, Judaic, Persian, Byzantine, or other. The twentieth century's version of intercultural influence, that which takes place on the global level of international consensus-building around law, is simply another example of this mutual enrichment process. While there is a great need for intercultural dialogue in order to grant the "margin of appreciation" that each culture deserves, there is also a need to know what is authentically Islamic so one can detect when Islam is being exploited or distorted as a convenient rationale for repression.

Religious Dissent Under Classical Islamic Law

The Structure of Islamic Law

This section of the chapter sets the context for the discussion of religious dissidents by briefly mentioning some of the basic concepts and relevant categories of Islamic law. More detailed explanations are set out in other chapters of this anthology.

Islamic law, like Jewish law, is a comprehensive and organic body of religious duties governing political, economic, and social life as well as the spiritual realm of worship and ritual—that is, behavior as well as belief. Law and theology are inseparable in Islam, as are the spiritual and the temporal realms of human life. The term for Islamic law, "Shari'a," literally means "the way" or "road" to follow (not unlike the Jewish term, "Halakah"), or more

loosely, "the discipline." Shari'a is comprised of two categories of sources, the primary, which consists of the Qur'an (the collection of recitations that Allah revealed to Muhammed) and the Sunna (the collection of traditions about the conduct and sayings of Muhammed), and the secondary sources, *Ijma* and *Qiyas*, which are not per se sources but rather methods of discovering Shari'a.

Supremely authoritative and infallible, as it is the word of God, the Qur'an cannot be altered. "There is no changing the words of Allah" (10:65). When the Qur'an is silent, one turns to the Sunna. Together, the Qur'an and Sunna are said to constitute an integrated whole, though in cases of conflict, the former prevails. When neither of the two primary sources offer a relevant passage, a third source, *Ijma* ("consensus"), provides a body of fixed rules reflecting the unanimous agreement of Islamic scholars, so long as their collective view did not conflict with the Qur'an and Sunna. Finally, when none of these three revealed or communal sources provide a relevant rule, individual Islamic scholars can derive one through logical inference from the primary sources and reasoning by analogy *(Qiyas)*, much as common law jurists do. The mental exertion involved in this interpretive process, which requires special training, is called *Ijtihad*. Thus, through *Ijma* and *Ijtihad* the community of Islam over time was able to develop the law to meet evolving needs, despite the formal notion that Shari'a is rigid and immutable.

Despite the emphasis in Islam on submission and unanimity, a variety of schools of interpretation or jurisprudence developed across the geographically wide and philosophically diverse range of Muslim societies, each with its own body of literature. "A tree, whose network of branches and twigs stems from the same trunk and roots; a sea, formed by the merging waters of different rivers; a variety of threads woven into a single garment; even the interlaced holes of a fishing net: these are some of the metaphors used by Muslim authors to explain the phenomenon of *ikhtilaf*, or diversity of doctrine," in Islamic law.

Today, the schools of orthodox (or Sunni, from the word Sunna) Islam are mutually respected but in their formative years were hostile and competitive. The four major schools are the Hanafi, which is dominant today in Afghanistan, Pakistan, Turkey, and Egypt; the Shafi, found in Indonesia and East Africa; the Maliki, dominant in North Africa; and the Hanbali, which predominates in Saudi Arabia. Each has its own method of *ijma*. For instance,

the Hanafis accept the opinions of Islamic scholars from any time period if based on principles of equity. The Malikis accept only the *ijma* of the Medina scholars, and only on the basis of public interest, while the Hanbalis follow only the consensus of the companions of Muhammed. This diversity of interpretive approaches belies the popular stereotype of a monolithic Islam.

The distinctions between the two major Islamic sects are even more pronounced than those between the Sunni schools. Shi'ite Muslims, considered heretical by Sunnis, have always been a numerical minority within Islam. They too have their own schools of jurisprudence, including the Ithna 'Ashari or Imamis, the Ismaili, Alawi, Druze, and Zeydi. Their split from orthodox Islam began as a political dispute and only later took on theological aspects. Shi'ites believe that the Imam or leader of the community must be a descendant of Ali, the fourth Khalifah and Muhammed's son-in-law who died in 661, thereby repudiating the first three Khalifahs, recognized as leaders by the Sunnis, who select any member of Muhammed's tribe for the chief leadership position. While Sunnis believe that the Khalifah is a servant of the law, serving only as a temporal leader, chosen by community consensus, required to seek scholarly consultation and removable for misconduct, the Shi'ite Imam is a sinless interpreter of the law, both a spiritual and a political leader, installed by prophetic designation, infallible and singularly capable of unitary leadership. Shi'ites accept the Qur'an and Sunna as sources of law, but not as the sole source of truth; the pronouncements of the Imams, even if in conflict with scholarly consensus, are also authoritative. But this results in a Shi'ite concept of law that is, according to at least two modern scholars, "more authoritarian and far more detached from social reality than the Sunni concept."

Categories of Religious Dissidents

When addressing particular issues involving types of religious human rights, one must keep in mind that the idea of human rights is a fairly recent addition to Western thought; in transplanting and grafting it onto the much older legal tradition of classical Islamic law, incongruities are bound to appear. For instance, Islam predates not only the modern, democratic notion of popular sovereignty, it also predates the medieval concept of royal sovereignty. "Since it recognizes only the sovereignty of God and does not believe in unrestricted man-made laws, its object is to put an end to the rule of human beings over other beings."

While the abolition of domination is a noble ideal, it is ultimately incompatible with the central tenet of the human rights movement: the inherent freedom and equality of all persons, which can only be achieved through the rule of (man-made) law.

Nevertheless, Majid Khadduri, a leading Islamic law scholar, has identified the five most important principles of Islamic human rights: (1) dignity and brotherhood; (2) equality among members of the community, without distinction on the basis of race, color, or class; (3) respect for the honor, reputation, and family of everyone; (4) the presumption of innocence; and (5) individual freedom. These can be deduced from the basic Islamic principles of the unity of God and Allah's command for justice and equality. Khadduri acknowledges, however, that upon closer examination, the five principles are less than absolute. "Dignity and brotherhood," for instance, not to mention "equality," are the "privilege only of persons of full legal capacity," which means free Muslim adult males. Thus, non-Muslims and slaves, as well as women and children, receive only partial protection of the law or have no legal capacity at all. Put less charitably by scholar and human rights activist Abdullahi Ahmed An-Na'im, "Categorization and discrimination on grounds of religion or belief is fundamental to traditional Shari'a law." Khadduri also notes that procedural protections for criminal defendants are not fully guaranteed.

In the next three subsections, this chapter explores the classical Islamic law concerning three categories of religious dissidents: (1) apostates and blasphemers; (2) heretics and renegades (or reformers); and (3) non-Muslims and infidels (and the related topic of jihad against enemies of Islam). These distinctions may seem artificial; indeed, the categories often overlap as they are all, in one way or another, challenges to orthodoxy and the cohesion of community. (For instance, orthodox Muslims may treat Baha'is and Ahmadis as apostates and heretics whereas these groups consider themselves non-Muslims and Muslims, respectively.) Perhaps the tripartite division is best understood as constituting expression of these three aspects of religious human rights: (1) freedom from the religion; (2) pluralism within the religion; and (3) equality and tolerance for non-members of the religion. In terms of categories of persons, the division would roughly cover: (1) non-believing former members; (2) non-orthodox believing members; and (3) non-believing non-members. Note that these labels are from the perspective of the orthodox believer; persons

labeled apostates and heretics often consider themselves more pious than their accusers.

Apostates and Blasphemers—Freedom of religion has been said to encompass not only the freedom to hold theistic beliefs but also the freedom to hold non-theistic beliefs as well as the freedom to change one's religion or belief, all without coercion or discrimination. It should follow then that criticism of religion, whether expressed verbally or through an act tantamount to the rejection of one or more religions, must be protected as an individual's human right. Because orthodox Muslims consider Islamic law to constitute, comprehensively, the Whole Duty of Mankind, and to be divine, eternal, correct, and immutable, any allegation that all or any aspect of it is less than ideal would inevitably be seen not only as an affront, but as a disloyal act of treason against Allah and against the unity and eternal values of the believing community. Such allegations must, therefore, be resisted and punished, in order to protect believers not only from injury but also from the possibility of change, which challenges to immutability represent.

Accordingly, in classical Islam, those Muslims who renounced their belief in Islam—who "disbeliev[ed) after having believed"—were considered apostates. On the basis of the Qu'ranic verse, "Whoso judgeth not by that which Allah hath revealed: such are disbelievers" (Qur'an 5:44), some Islamic scholars placed any Muslim who refused to judge or be judged by Shari'a into that category. Apostasy *(ridda)* was one of the seven *hudud* offenses against God, the mandatory punishment for which involved physical pain; the six others were theft, armed robbery, drinking alcohol, adultery, slanderous claims of unchastity, and armed rebellion against the leadership. Apostasy could be committed by word (blasphemy), by deed, or by omission of a duty, so long as the offender intended the word, act, or omission with awareness of the penalty, death. The *hudud* crimes were those acts that infringed not only on religion but also threatened community interests in public order, thereby requiring state control. For instance, the Qur'an calls for the death, mutilation, or expulsion of those who take up arms against Allah, create discord on earth, and strive after corruption (Qur'an 5:33).

However, no passage of the Qur'an actually specifies any penalty per se for apostasy. The closest approximations state: "And for those who disbelieve in their Lord there is the doom of

hell, a hapless journey's end" (Qur'an 67:6). "And whoso seeketh as religion other than the Surrender to Allah *(Islam)*, it will not be accepted from him, and he will be a loser in the Hereafter" (Qur'an 3:85). Numerous other verses cajole the Muslim into adhering to the faith, to avoid the temptation (posed particularly by the People of the Book) to convert, but the exhortation is moral, not penal. Moreover, during his lifetime, Muhammed is said never actually to have executed persons who, once having adopted Islam, later renounced it.

Nevertheless, conversion to another religion was considered apostasy and may in practice have carried the death penalty. The Qur'an orders those who "turn back" (to enmity) to be slain, "wherever you find them" (Qur'an 4:89). This verse may have justified Muhammed's victory over pagan tribes when he returned to conquer Mecca between the years 624 and 630. More directly, Muhammed is reported to have said that "he who changes his religion must be killed," unless he repents. This is a *Hadith*, rather than a Qu'ranic verse, first compiled during the wars of apostasy after Muhammed's death, when some of the previously converted Arab tribes in Medina renounced Islam by refusing to pay the alms tax. The first Khalifah, Abu Bakr, who was keen on legitimizing his authority as successor, violently subdued the tribes after reminding them of their agreement with God's prophet. He may have relied as precedent on Muhammed's order to dismember and slowly kill a band of apostates who murdered Muslim herdsmen and stole their cattle. Some modern scholars, however, believe that Abu Bakr was committing a political act of counter-rebellion for which a *hudud* sanction was invoked collectively and which was not intended to be applied to "pure" cases of individual apostasy. Similarly, Muhammed's order may have been imposed for murder and theft, not apostasy. Alternatively, it is possible that the early Muslim leaders and jurists were confused over the Qu'ranic tension between religion and politics, thereby improperly treating disobedience, communal betrayal, murder, theft and perhaps mere breach of contract as apostasy.

The Quranic statement, "There is no compulsion in religion" (Qur'an 2:256), is often cited to support the view that death was not an authorized punishment for conversion. However, the remainder of that same verse implies that the non-coercion rule applied only to those who convert *to* Islam, not those who leave it: "There is no compulsion in religion. The right direction is

henceforth distinct from error. And he who rejecteth false deities and believeth in Allah hath grasped a firm handhold, which will never break. Allah is Hearer, Knower" (Qur'an 2:256). This would constitute a double standard. Although conversion to Islam must be freely chosen, without fear and without coercion, "it is practically impossible," according to modern scholar Mohamed Talbi, "once inside Islam, to get out of it."

Regardless of the actual punishment rendered, about which there may have been no consensus, it is fair to conclude that conversion to a religion other than Islam was treated as apostasy, a crime. And if the apostasy was deemed to constitute an outright act of rebellion or sedition, it could, with Qur'anic sanction, be punished by death. Short of physical death, apostates who did not repent suffered various elements of "civil death," including suspension of the right to dispose of property and to inherit property. Marriage contracts were dissolved upon the apostasy of either spouse, and their children were declared illegitimate.

Heretics and Renegades—While apostasy, in the mind of the orthodox, is a rejectionist's act of unbelief, and blasphemy is injurious rhetoric ("form or sound or interference"), heresy is more about content: false belief, or the denial of orthodox belief by a rival school of thought, Just as criticism or rejection of religion could be labeled as apostasy, attempts to reform or revise it could be considered heresy. In the case of a scripture that is held to be sacrosanct and immutable, non-orthodox interpretations are vulnerable to the charge. Of course, one group's heresy is another group's innovation.

Unlike apostasy, which is definitely, if ambiguously, proscribed in the Qur'an and Sunna, heresy is a concept derived from Muslim history rather than Islamic legal texts. Muhammed, in fact, is reported to have said, "Difference of opinion among my community is a sign of the bounty of God." The Islamic concept of heresy *(kufr)* must be traced to the early conflict between the Sunni, Shi'ite, and Kharijite communities over the legitimate successor to Muhammed, with the result that each sect regarded the others as heretical. Under Sunni rule, the leaders of Shi'ite and other heterodox sects were persecuted and executed for "subversive activities," a charge often based on slim evidence. An out-right civil war erupted in the years 656-661 between supporters of the Sunni Khalifah Mu'awiya and those backing Ali, who later became the Shi'ites.

A third sect, the Kharijites ("seceders"), who believed that leaders should be democratically elected on the basis of piety and personal ability alone, was hostile to both communities. The Kharijites assassinated Ali and attempted to kill the Sunni leader, Mu'awiya. Ali's son (and Muhammed's grandson), Hussein, was thereafter brutally massacred along with his followers by Sunni troops. This latter event came to symbolize, for the Shi'ites, the persecution they suffered under the orthodox majority. The first eleven of their Imams or leaders, beginning with Ali and Hussein, were murdered. The twelfth, who mysteriously disappeared, will someday return as a messiah, according to Shi'ite (sometimes called "Twelver") legend. In the meantime, Shi'ite ritual, belief, and conduct is focused upon the theme of martyrdom and intense reverence for their Imam.

While the autocratic Shi'ites were arrayed to the right of the Sunni majority, the democratic Kharijites stood to the Sunnis' left, which made them enemies of all Muslims. They believed that beyond one's degree of God-fearing, all people are equal before Allah. The Kharijite leader's legitimacy depended on his commitment to justice; if he was corrupt, unjust and ineffective, the community could remove him, an option not available to Shi'ites and Sunnis. Eventually, they contended, when everyone becomes a true believer, the need for an Imam and even for the state would "wither away," a doctrine that anticipated the Marxist version by twelve centuries. Influenced by the Greek philosophy they encountered in Syria, the Kharijites also advocated the doctrine of *qadar* (will-power), a form of free will, which led them to criticism of repressive government and into questions of human responsibility for choosing between justice and injustice. Anathema to Sunnis, who believed in the doctrine of *jabr* (compulsion or involuntarism) and the theory that all human acts were predicated by Allah, *qadar's* advocates had to be persecuted in order to prevent disobedience to God—and to Sunni hegemony. Like all heretics, they would be punished by eternal fire in hell. *Qadar* was attractive to Shi'ites as well, as it justified their opposition to Sunni rule.

The Kharijites were by no means humanists, however. Militant and puritanical, they had their own concept of heresy, which required capital punishment, and believed in the prosecution of war against unbelievers. Other Muslims, repelled by the violence that accompanied these politico-religious battles, called for moderation, tolerance of differing opinions, and the separation of

religious and moral questions from political debates. Called *Murjiites*, they advocated the doctrine of suspension of judgment on political issues and the view that each Muslim had the right to his own opinion and should be immune to charges of heresy, so long as he was a monotheist and believed in the message of Muhammed. Not a distinctive sect or school of jurisprudence, the Murjiites laid the groundwork for other more tolerant heterdoxies, such as that espoused by al-Hasan al-Basri in Southern Iraq during the late seventh and early eighth centuries. Additional groups, such as the *Najdites*, advocated anarchism, arguing that inward belief in Islam's religious and moral obligations can supersede discord and obviate the need for government.

After the eleventh century, the only significant rival sect that survived, either corporeally or philosophically, was the Shi'ite. For instance, Kharijite doctrine is little known today because most of its writings were destroyed by opposing sects. Because of violent persecution, remnants of the Kharijites were forced to flee to remote outposts. Today they are found only in Oman, the official faith of which is *Ibadi*, a Kharijite sub-group, and in isolated areas of North Africa. Nevertheless, their existence, along with that of the Murjiites, demonstrates that almost from its very start, Islam contained a tradition of dissent and pluralism, even if it was inhibited from flourishing. As noted by Ann Elizabeth Mayer, if the Kharijites and their thought had become "better known and more widely accepted by Muslims than they presently are, it might be said that the Islamic tradition from the earliest stages has included ideas that anticipated some of the democratic principles that underlie modern human rights norms."

Non-Muslims and Infidels—"Minority rights, it has been suggested, function at the limits of the international law of human rights by testing States in their humanitarian concerns." The manner in which a society treats its ethnically, racially, religiously or linguistically diverse minorities—that is, any uniquely identifiable, non-dominant, and hence vulnerable group—may serve as a litmus test of its commitment to human rights. Accordingly, while members of such groups may not consciously choose to become dissidents, nor conceive of themselves in that way, by very reason of their subordination they may be forced into the role of human rights advocates.

Classical Islam saw the world as a battleground where Muslim believers and unbelieving infidels waged war and accordingly

divided it into two parts: the territory under Islamic rule called *dar al-Islam,* and the rest of the world ruled by non-Muslim powers, called, *dar al-Harb,* or the territory of war. There was no such state as that of neutrality. A *harbi,* or member of the *dar al-Harb,* was an unsubjugated unbeliever and by definition, an enemy of Islam. According to Majid Khadduri: "The territory of war was the object, not the subject, of Islam, and it was the duty of the Imam, head of the Islamic state, to extend the validity of its Law and Justice to the unbelievers at the earliest possible moment. . . . The instrument through which Islam sought to achieve its objectives was the jihad." Jihad, which literally means "effort," "sacrifice," or "exertion" in the path of God, was a religious and legal duty of each Muslim to combat evil and corruption, to claim the earth for Allah and to spread his word. "Ye should believe in Allah and His messenger, and should strive for the cause of Allah [jihad] with your wealth and your lives" (Qur'an 61:11). Intended to protect the welfare of the Muslim community against enemies, jihad might be analogized to the modern concept of "national security" as a justification for state action. That is, though realistically needed to protect the state, as a concept it could also be abused in the form of imperialism abroad and human rights violations at home.

While often defined as "holy war," a term equivalent to the Western religious concept of "just war," jihad did not necessary require violent military conduct. While dying in battle was considered the highest form of witness to Allah, for which one would attain paradise in the hereafter, the duty could be exercised not only through armed struggle but also through preaching and example, not to mention psychological warfare. If a community of *harbis* agreed to accept the Islamic order, a peace treaty—never to exceed ten years—could be established with them. Only overtly hostile infidels had to be vanquished; thus, jihad, according to some schools of jurisprudence, was only to be invoked defensively. Given the Qu'ranic principle, "no compulsion in religion," *harbis* were not necessarily forced to convert to Islam.

But state expansion was another matter. As Abdulaziz Sachedina has noted: "Undoubtedly there were many instances of *jihad* in Islamic history in which the actual motivation was an interest in territorial expansion." Islam was not only to be defended but to be spread. Because of its early history as an expansionary power, the Islamic empire came to dominate a diverse array of

other cultures. In the first two decades alone after Muhammed's death, Arab armies conquered Syria, Jerusalem, Persia, Iraq, and Egypt. Within the first century they had reached Spain and North Africa to the West, Byzantium to the North, and India and present-day Afghanistan to the East. In these provinces, Muslim military governors were appointed and poll *(jizya)* and land taxes were imposed on non-Muslim subjects who did not convert to Islam. Local civil control, however, was usually left to the non-Muslims.

Within the *dar al-Islam,* in the civilizations which developed in these wide-ranging imperial territories, four socio-economic classes were identifiable. In descending order of status, they consisted first of the Muslim Arab rulers, who lived in garrisoned residences, paid only a religiously-mandated alms tax, and received a regular payment from the imperial treasury. (Within this class, Muslim men outranked Muslim women.) The second highest class was the non-Arabs who, had converted to Islam with such alacrity that they far out-numbered the ruling Arab class and often caused fiscal crises by becoming exempt from the poll taxes. They tended to have originated as pagans, who lacked the Jewish and Christian traditions of martyrdom for their faith. Despite Muhammed's proclamation that "all Muslims are brothers," the converts were not always received wholeheartedly. "Although better educated, they were rarely accepted socially and had to attach themselves to an Arab family or tribe as clients *(mawali)*. In the West, the *mawali* became Arabicized," causing the term itself to disappear by the eleventh century. "But in the East the Arabs were ultimately absorbed by their subjects, and while Islam remained the dominant religion, Iranian, Turkish, Berber and Indian characteristics prevailed."

Third came the "People of the Book" or those whose faith was based, like Muslims, on revealed scripture (*ahl al-kitab*, thus the name *kitabi*, also known as *dhimmi*, which means "guaranteed"), the Jews and Christians whom Muhammed had decreed be treated with tolerance. "Lo! those who believe, and those who are Jews, and Sabaeans, and Christians—whosoever believeth in [God] and the Last Day and doeth right—there shall be no fear come upon them, neither shall they grieve" (Qur'an 5:69). Moreover, *hadiths* report the Prophet as stating: "Whoever wrongs a *dhimmi* or lays on him a burden beyond his strength, I shall be his accuser on the Day of Judgment." The third *Khalifah*, Umar, added the Zoroastrians of Persia to this classification; Mandaeans and others were added

later. The justification was that monotheistic, revelatory religions which originated before Islam were embryonic, incomplete, and flawed if not distorted versions of Islam itself, but deserving of at least a limited tolerance.

Dhimmis were conquered peoples who had agreed to submit to Muslim rule. Offered a compact or covenant of protection (*dhimma,* often called the "Pact of Umar" after the Khalifah who originated it), *dhimmis* were permitted certain privileges, including the autonomy to practice their faith, in exchange for payment of the *jizya* tax (by non-indigent, able-bodied males between 16 and 50, fixed according to financial position), certain restrictions on their freedom, and a commitment to live peacefully. A typical *dhimma* contract offered the following privileges: The contract provided protection of *dhimmi* land, crops and livestock, property, life and honor against attack. It offered full rights of inheritance if heirs could establish their right under Islamic law, and full powers of acquisition, sale, transfer, grant and mortgage of land. It offered exemption from military service (or exemption from *jizya* for those willing to render such service). It offered maintenance of *dhimmi* indigents through funds provided by the *zakat* tax paid by Muslims (and not by *dhimmis*). It offered freedom to worship their religion, including protection from desecration of existing holy sites, autonomy in appointment of religious leaders, and freedom from pressure to convert—though scholars differ over whether they had freedom to engage in practices that conflicted with Islam, such as the consumption, sale, and production of alcohol. Finally, the contract offered juridical autonomy (exclusive jurisdiction) in civil matters according to their own laws, and equality of punishment and restitution in criminal matters according to Islamic law (for instance, the same punishment, death, and the same blood-money for murder of both *dhimmis* and Muslims).

These benefits carried concomitant burdens, the badges of *dhimmis'* second-class status. *Dhimmis* could not hold political or judicial office outside their local community structure and could not testify in litigation involving Muslims. They could not marry Muslim women and were forbidden to carry arms, to ride horses or mules, to walk in the middle of the street, to sell their books or religious articles in marketplaces, to raise their voices during worship, or to build churches, tombs, or houses higher than those of Muslims. *Dhimmis* were required to wear distinctive clothing and hair styles, which set them apart from Muslims, and to stand

in the presence of Muslims. They were not to convert Muslims to their religion nor prevent one of their own from converting to Islam. Moreover, if the People of the Book refused the *dhimma* compact, they had only the choice of death or converting to Islam—willingly, or after their defeat in war. Hence, scholars such as Lewis and An-Na'im consider the *dhimma* contract to constitute coerced submission rather than a charter of rights. Lewis would concede, though, that while *dhimmis* were treated in a discriminatory manner, they were not subject to out-right persecution.

The fourth and final class consisted of *harbis* who had been made slaves: Greeks, Turks, Armenians, Kurds, Spaniards, Berbers, Africans, and other polytheists and idolators who had been captured as prisoners of war rather than slain in or after battle. Spurning slavery but unable to outlaw it, Muhammed had decreed that slaves be treated the same as their masters in regard to food, clothing, and shelter. Unlike the slaves of ancient Greece or Rome or, indeed, the United States, they could hold property and were supposed to have equal rights before Muslim courts in matters of criminal law. Moreover, they could seek their freedom in court on grounds of cruelty, harsh treatment, or failure to provide maintenance. Nonetheless, outside of these privileges, they lacked the freedom of Muslims and even *dhimmis*. They had the choice only of slavery, conversion to Islam, or death. "Then, when the sacred months have passed [when a treaty with idolators has expired], slay the idolators wherever ye find them, and take them (captive), and besiege them, and prepare for them each ambush. But if they repent and establish worship and pay the poor-due [that is, convert], then leave their way free. Lo! Al-lah is Forgiving, Merciful" (Qur'an 9:5).

The Islamic toleration of slavery offered various advantages: "economically, through the profitable slave trade, socially through the institution of concubinage and the harem, and politically as individual slaves gained power as favorites, bodyguards, and rulers." But like the *dhimma* compact that established a *de jure* segregation of Muslims and non-Muslims, with clearly inferior status for the latter, it could also be justified on theological grounds:

> Since the Islamic state is basically an ideological state, only those persons are to be primarily entrusted with its administration who believe in its ideology, are conversant with its spirit, and have dedicated themselves to the promotion

of the objectives of the state. . . . This does not mean that the Islamic state taboos the utilization of non-Muslims in the service of the state. This only means that while availing of the services of non-Muslims, due care should be taken that the Islamic character of the state is not compromised and the ideological demands are not sacrificed on the altar of so called "tolerance."

This might be analogized to the modern concept of "bona fide occupational qualification" in employment law which permits discrimination when the job requires it. In a state where religion and government are fully integrated, the justification would apply to official positions as well as to private ones. Moreover, it is important to recognize that on a broad continuum, apostates who were former Muslims were probably treated more harshly than non-Muslims. And the treatment of minorities in general in Islamic lands of the time was comparably more favorable than in other pre-modern cultures such as the Roman or the Persian.

The Closing Door

The eighth and ninth centuries were a fruitful time for Islam. Through the process of *ijtihad*, the exercise of independent juristic reasoning, Islamic jurists were able to interpret unclear passages of the Qur'an and Sunna in dynamic ways and to discern new rules or to apply old ones where the two primary sources of law were silent. When the fresh interpretations achieved a scholarly consensus *(ijma)*, they attained a legal status of their own. Moreover, through exposure to cultures as diverse as the Hellenic, Christian, Syrian, Persian, Judaic, Byzantine-Roman, and Zoroastrian in the regions that had been conquered, both Islamic culture and Islamic law were creatively enriched.

Eventually, however, Shari'a evolved to the point where *ijtihad* and further innovation were deemed no longer necessary. It was in the tenth century that the "door of *ijtihad*" was "closed" and "Islamic jurisprudence . . . resigned itself to the inevitable outcome of its self-imposed terms of reference." As further explained by Coulson: "[The] permissive and inclusive function of ijma is in fact limited to the ratification of the status quo at the time of its formation; from this stage onwards it becomes a purely prohibitive and exclusive principle. Once formed, the ijma was infallible; to contradict it was heresy." Henceforth, both the method and spirit of *ijtihad* would be replaced by *taqlid*, the imitation of prior doctrine, and by a much more rigid, formalistic, and often literalist theology.

As the above discussion has revealed, early Islam contained within itself at least two streams: a coercive, aggressive one and a more humanistic, libertarian one. The "closing of the door" resulted in an elevation of the former over the latter. Having conquered so many different peoples in such a short period of time, quickly securing the position of a hegemonic occupation force (thereby provoking the risk of rebellion both among its heterodox adherents and its alien adversaries), Islam forced itself into a perpetual defensive posture, perceiving threats to its autonomy at every turn. As noted by Abdulaziz Sachedina: "In the face of the expansion of Islamic political power and hegemony, the deep Qu'ranic impulse toward religious freedom steadily lost ground—in practice and in theory—to the equally strong concern for defending the faith against active persecution and violent assault. The defensive use of force gradually gave way to more aggressive legal and political policies." While this approach may have spurred Islam's survival during the Crusades and other Christian invasions, as well as through Mongol and Ottoman rule, it would prove less than triumphant when confronted with the advent of European imperialism and other forms of Westernization in the nineteenth and twentieth centuries.

Religious Dissent Under Contemporary Islamic Law

Modern Muslim States

Unlike the classical era of Islam, in which sects and schools of jurisprudence formed the major constituent blocs, contemporary Islam cannot be analyzed in isolation from the modern nation-state, which takes a variety of forms and modes of origin. In the Middle East and Muslim Africa, only Turkey (the Ottoman Empire), Saudi Arabia, Iran (Persia), Egypt, Ethiopia, Sudan (Nubia), and Oman (Muscat and Oman) had independent national identities, as such, that pre-existed the modern era. Most states in this region were created and their borders defined by European powers after World War I; many, including Algeria, Tunesia, Jordan, Kuwait, Sudan, and Libya, did not achieve sovereignty until after World War II. While some began their modern independence as traditional monarchies, socialist-influenced revolutions turned kingdoms into republics in Egypt, Yemen, and Iraq. Iran's monarchy was replaced by an Islamic revolution in 1979. Of the remaining monarchies, parliamentary elections have recently been held in Jordan, Morocco, and Kuwait, while elections have yet to be held in Saudi Arabia, Oman, or Qatar. The Muslim Asian states of Pakistan, Malaysia,

and Indonesia are a parliamentary democracy, a constitutional monarchy, and a military-dominated republic, respectively. Afghanistan's government is currently in "post-Communist Islamic transition."

Regional alliances must also be taken into account, given that Islam, or Islamic/Arab culture, often provides their strongest unifying tie. The Organization of the Islamic Conference and the League of Arab States are predominantly political in mission, while the Organization of Arab Petroleum Exporting Countries, the Economic Cooperation Organization and the Gulf Economic Council chiefly perform economic functions. The six former Soviet Central Asian republics, whose current governmental form can, like Afghanistan's, best be described as "transitional post-Communist," have along with Afghanistan recently joined Iran, Turkey, and Pakistan in the Economic Cooperation Organization to become the third biggest trading bloc after NAFTA and the European Union. Twenty-five percent of the world's Muslim population is now combined in this one bloc.

An analysis of the modern-day interpretations and practices of Islam regarding the same three categories of religious dissidents just reviewed requires an introduction to the legal context in which they sit. Accordingly, this part of the chapter will first describe the development of the constitutional provisions in majority Muslim states concerning religion and make a brief mention of statutory reform. It will then touch on these states' positions on the relevant international law.

Constitutional and Statutory Law—Classical Islamic law contained no system of constitutional law in the sense of machinery to control abuses of autocratic state power, to oversee the regulation of governmental acts, or to hold high officials accountable to fundamental principles of justice. These are modern inventions of Western origin, growing out of the Enlightenment period's glorification of the individual and the distrust of the state. With the onset of the Middle East's colonial era in the nineteenth century, however, growing movements of Muslims exposed to Western ideas began to agitate for the introduction of European models of constitutional monarchy, perhaps with the hope that they would help usher in a wave of prosperity and freedom comparable to that enjoyed by the European powers. While the Muslim constitutionalists often fought with conservative clerics, who believed that constitutional organs and constitutional freedoms

conflicted with Islamic law, this was not always the case. For instance, the influential grand *mufti* (religious-legal figure) of Egypt, Muhammad 'Abduh, who died in 1905, was an advocate of their compatibility, while in 1909 the Turkish sultan stated publicly that constitutional government was "prescribed" by the Shari'a.

The first Muslim constitution was promulgated in Tunesia in 1861; Turkey and Persia soon followed, with the Persian terms *dustur* and *kanun-i esasi* being adopted by both Arabic and Turkish as equivalents for the Latin-rooted "constitution" or the more literal "fundamental law." (Although the Shari'a offers a variety of words for "law," it has none connoting a human enactment, fundamental or otherwise, as law is believed to derive only from God's revelations. With the exception of the traditional Islamic monarchies of Saudi Arabia and Oman, all Muslim states promulgated written constitutions. This development reflected a Middle Eastern trend toward secular nationalism replacing religion as a collectivist organizing mechanism. A backlash would form later.

Today, 34 majority Muslim states have written constitutions. Of those, 23 (to which should be added Oman and Saudi Arabia) have officially proclaimed Islam to be the state religion and/or Shari'a to be the principal source of law. A few, such as those of Turkey, the Gambia, and Senegal, are avowedly secular, while Iran's is explicitly Islamic; all the other constitutions are attempts at fusing the two perspectives, typically by relegating Shari'a and Shari'a court jurisdiction to a limited area such as family law. These and other relevant provisions concerning freedom of religion in the constitutions of Muslim states are described in detail in the sequel to this anthology. For purposes of this chapter, the two constitutions of Iran deserve special mention. The 1906-1907 document arose out of a tumultuous context in which nationalists sought a Western-type constitution to constrain the despotic shahs, while Shi'ite clerics vehemently condemned its advocates as heretics. As promulgated, it contained limitations on the freedom of publications, which were heretical or hurtful of Islam, and permitted freedom of association only where religious order was not provoked. Despite these restrictions, the Ayatollah Khomeini was later to denounce its advocates as "agents of British imperialism."

Khomeini's own, self-consciously Islamic constitution, drafted by the cleric-dominated Assembly of Experts at the end of 1979,

merges state and religious authority and expressly and completely subordinates human rights to Islamic standards and Islamic goals. For instance, in stating that the role of the executive power is to pave the way for the creation of an Islamic society, the Preamble proclaims that "the confinement of the executive power within any kind of complex and inhibiting system that delays or impedes the attainment of this goal is rejected by Islam." In fact, although the parliament is maintained, sovereignty is based not in the people but in God, an unprecedented concept in Islamic law. The Council of Guardians, all of whom are Islamic clerics, has the authority to review and veto any secular legislation that conflicts with Shari'a. This supremacy makes the state a theocracy rather than a republic. (In fact, it was an autocracy, as Khomeini, before his death, often vetoed the Guardians.) Ideology similarly infuses the sections on the Iranian military, "an Islamic army," which is responsible not only for guarding the country's frontiers, "but also for fulfilling the ideological mission of jihad in God's way; that is, extending the sovereignty of God's law throughout the world (in accordance with the Qur'anic verse: 'Prepare against them whatever force you are able to muster, and strings of horses, striking fear into the enemy of God and your enemy, and others besides them' [Qur'an 8:60])."

While the formally Shi'ite Iranian constitution accords full respect to the various Sunni schools of jurisprudence, "Zoroastrian, Jewish and Christian Iranians are the only recognized religious minorities," according to article 13. Baha'is, who have been persecuted in Iran since before the 1979 revolution (see discussion below), are not even mentioned. Other provisions purport to guarantee freedom of the press, assembly, and association—provided that they are not "detrimental to the fundamental principles" of Islam. Similarly, non-Muslims are to be treated "according to the dictates of virtue and Islamic justice," so long as they "do not become involved in conspiracies and activities which are anti-Islamic or are against" Iran. This appears to be a warning that opposition by non-Muslims will meet with harsher punishment than the same activity committed by Muslims.

Given Iran's dismal revolutionary and post-revolutionary track record on human rights and its failure to "lay great store by principles of legality, irrespective of whether these were religious or secular," it can be said that Iran's new constitution has turned the notion of constitutionalism on its head, allowing it to serve as

a warrant for, rather than a safeguard against, tyranny. Whether this demonstrates the ultimate incompatibility of liberalism and Islam, or at least Shi'ite Islam, remains to be seen. At least one scholar believes that the condition of human rights in post-revolutionary Iran has broader implications, given developments in the Sudan and Pakistan and the threat of Islamicist take-overs in Algeria and elsewhere, including the Central Asian states of the former U.S.S.R.

While the relevant provisions of statutory law in Muslim majority states are too numerous even to begin to summarize here, mention should be made of the significant reforms undertaken in many such countries. In most cases, these were concomitant with the reception of European law, the French civil and penal codes having particular influence. For instance, as early as 1858, the French-based Penal Code of the Ottoman Empire abolished the traditional *hudud* punishments—with the notable exception of the death penalty for apostasy. In the post-World War II period, numerous other states, ranging from Morocco, Tunesia, and Algeria in the Maghreb, to Iraq, Iran, and Yemen in the Gulf region, to Pakistan further East, all modernized their family law, with relatively positive impact on the legal status of women. Moreover, with the notable exception of Saudi Arabia, Muslim states now permit *dhimmis* to obtain citizenship.

Reforms of this magnitude and kind required significant doctrinal and ideological deliberation. As explained by N.J. Coulson: "If the law is to retain its form as the expression of the divine command, if indeed it is to remain Islamic law, reforms cannot be justified on the ground of social necessity per se; they must find their juristic basis and support in principles which are Islamic in the sense that they are endorsed, expressly or implicitly, by the divine will." Reform advocates invoked the methodology of *ijtihad*, the Shari'a-endorsed mode of reasoned interpretation, in justification. While primarily limited to the easily severable area of family law, these reforms serve as an important precedent for future efforts involving a wider range of subjects. If modernizations can be legitimized in regard to the rights of women, why not also for non-Muslims, apostates, and other religious dissidents? Moreover, international law requires states to rescind legislation that serves to discriminate on the ground of religion or belief and to enact legislation to give effect to the right of religious freedom.

As will be noted more fully below, not only have most Muslim states failed to extend the reach of *ijtihad* into these additional areas, but since the 1970s, Islamic revivals in states such as Iran, Pakistan, Libya and the Sudan have in fact ushered in a "reislamicization" of their secular statutes.

International Law—Despite the long-term existence of a scholarly body of Islamic international law known as *siyar*, the modern relationship between Islamic law and international law is a tortuous one. The case of Libya is emblematic in this regard. Even though international terrorism is a subject unmistakenly regulated by international law, Libya's Colonel Qaddafi has repeatedly insisted that he will not hand over the Libyan suspects in the Pan Am 103 bombing case to British or American authorities unless they will be tried by an Islamic court, with an Islamic jury, a Muslim prosecution team, and a court that "opens its session with recitation from the Koran." Calling such an eventuality, if his conditions were ever to be met, an "historical turning point," Qaddafi explains that it would be a "test" that would "expose [the non-Muslims] and confirm their hostility to Islam." Libya had rebuffed a United Nations Security Council request to cooperate in establishing responsibility for the bombing. Yet it was willing to use international law affirmatively in the same matter, when it sued the United States and the United Kingdom in the International Court of Justice over the effect of the Security Council's resolutions and the interpretation and application of the Montreal Aircraft Sabotage Convention, of which all three states are parties.

States cannot choose when they want to be part of the international community and when they do not. All Muslim countries are members of the United Nations, whose Charter states the organization's purposes to include "international cooperation . . . in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion. . . ." These principles are not necessarily in conflict with the fundamental tenets of Islamic law. For instance, international law does not require the separation of church and state, so Muslim governments are not absolutely precluded from enacting Shari'a within the formal structure of their domestic legal systems. Indeed, it could even be argued that the right to self-determination under the United Nations Charter and other international treaties includes the right of Muslims to apply Islamic law in their public as well as in their private lives. In the most

telling evidence of modern Muslim support for international law, none of the 23 Muslim states to ratify the International Covenant on Civil and Political Rights has entered any reservations as to Article 18's provisions on religious freedom, including its prohibition on coercion in the choice of religion. Yet numerous Muslim states which have ratified the Convention on the Elimination of All Forms of Discrimination Against Women have entered reservations to the effect that they consider themselves bound to the treaty only to the extent that its provisions are not in conflict with Shari'a. This contrast arguably supports the assent to global norms of religious freedom in the Muslim state parties to the Covenant.

A conspicuous, but not surprising absentee from much of the international human rights treaty regime is Saudi Arabia. It abstained from the 1948 United Nations General Assembly vote on the Universal Declaration of Human Rights—all other Muslim states which were then United Nations members voted affirmatively—and is not a party to the International Convention on the Elimination of All Forms of Racial Discrimination, the Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention Against Torture, or the Convention on the Rights of the Child. It did, however, play a part in the drafting of the Universal Declaration and of the Covenant on Civil and Political Rights. In both fora, the Saudi representative, al-Barundi, strenuously objected to the instruments' respective articles on religious freedom, arguing that giving international legitimacy to the right to change religions would insult Muslims, invite missionaries into the Arabian peninsula, and "raise doubts in the minds of ordinary people to whom their religion [is] a way of life."

Perhaps Saudi Arabia should be applauded for being more honest in its approach to international law than those states, Muslim and non-Muslim alike, which ratify treaties that conflict with their domestic law with no evident intention of complying with the international standards. Several United Nations bodies have considered the question of whether states which recognize an official state religion are in conflict with the principle of non-discrimination. The Human Rights Committee and a United Nations Special Rapporteur on religious discrimination concluded that nothing can be inferred from the mere fact of such recognition

that other religions or their members are not treated equally under the law. Nevertheless, international law does not allow states to invoke religious law, or indeed any domestic law, as an excuse for breaching their treaty obligations. That is why states such as Finland, Sweden, and Mexico have officially objected to the reservations entered by certain Muslim states to the Convention on All Forms of Discrimination Against Women to the effect that Shari'a limits their obligations. International law requires that reservations not be incompatible with the object and purpose of a treaty, which in this case was the elevation of the rights of women over religious rules and customs which treat them unequally.

The true test of the relationship between contemporary Islamic law and international human rights law will only come when—or if—viable implementation measures are adopted by Muslim states. Only seven of the 23 Muslim state parties to the International Covenant on Civil and Political Rights have ratified its Optional Protocol, which subjects states to petitions by individual human rights victims. On the regional level, 15 Muslim states are parties to the African Charter on Human and Peoples' Rights, but the Commission created under that instrument does not operate as a true recourse-mechanism for complainants. There is no formally adopted Asian charter on human rights, and neither the Organization of the Islamic Conference nor the Arab League has made human rights a topic of major concern. While the OIC adopted the oxymoronic "Universal Islamic Declaration of Human Rights," it contains no enforcement procedures. In 1968, the Arab League created a Permanent Arab Regional Commission on Human Rights, but it was not intended to receive individual complaints. It has been said that "[t]he pacucity of published information about the activities of the Commission suggests that it has not made a conspicuous contribution. Indeed, many Arab lawyers are unaware of its existence." A number of non-governmental Arab or Islamic human rights organizations do exist, but they should not be taken as an adequate substitute for official state action in implementation of international standards. In fact, many of these NGO's have themselves been subject to presecution of advocating on behalf of human rights.

Categories of Religious Dissidents

This section of the chapter will present for each of the three categories of religious dissident used above a non-comprehensive selection of recent cases. Within each category, the cases will be

followed by reference to the relevant Shari's and modern international legal standards, so that conclusions can be drawn as to whether the contemporary Muslim states are in compliance with either or both of these two sets of norms.

Apostates and Blasphemers—While the notorious case of Salman Rushdie is the best known example of punishment for apostasy in contemporary Islam, his is by no means a singular instance. Recent examples can be grouped into three categories: (1) officially state-sanctioned enforcement actions; (2) extra-legal enforcement of apostasy decrees issued by vigilante extremist groups; and (3) mixed cases.

In the first category one should note new legislation in Yemen and the Sudan penalizing apostasy and blasphemy. In Yemen, the 1990 Law on the Press and Publications bans any publication which, inter alia, "prejudices the Islamic faith and its lofty principles or belittles religions or humanitarian creeds . . . [and which] distort[s] the image of the Yemeni, Arab or Islamic heritage." While capital punishment for apostasy was first introduced by coup-leader Nimeiri in 1983, article 126 of the post-Nimeiri 1991 Sudanese Penal Code now authorizes the death penalty for any non-repenting Muslim who "advocates the rejection of Islamic beliefs or announces his own rejection of Islam by word or act." Although recent converts are by law to be treated more leniently, many fear prosecution should they revert to their original religion, as they tend to be Christians and animists as well as Ethiopian refugees who nominally converted to Islam or took Muslim names in order to receive relief, avoid discrimination, or marry Muslims. In a recent case illustrating the potential reach of this law, Sudan's justice minister as well as its government-controlled press attacked a human rights investigator reporting to the United Nations Commission on Human Rights. For his report, which describes Sudan's slave trade and notes that its criminal code authorizes punishments such as amputation and crucifixion, Gaspar Biro, a Hungarian law professor, was called "satanic" and "an enemy of Islam" guilty of "blasphemy."

Other state-sanctioned examples reveal the potential for abuse of state power. In Indonesia, two college students, one Muslim, one Catholic, were convicted in 1992 of blasphemy and publicly defaming Muslims when during a rock concert they engaged in a spontaneous word play involving puns on Qu'ranic verses. In Saudi Arabia, two newspaper editors were sentenced to prison

and to hundreds of lashes for printing a comic strip from the syndicated series "B.C." which facetiously questioned the existence of God, while in Iran, a cartoonist and his magazine editor were similarly sentenced for a drawing of a soccer player adjudged to resemble the late Ayatollah Khomeini; both cases drew the attention of American cartoonist Garry Trudeau.

Even more disturbing are the non-official vigilante cases, which often result in brutal assassinations, ordered without trial by Islamic revivalists in countries when they threaten government stability. While militants in Egypt and Algeria have killed government officials, foreigners, religious minorities, and average Muslim civilians in the course of their struggles for power, when they target intellectuals they often rely on the Shari'a as a rationale. For instance, Farag Fouda, one of Egypt's leading secular intellectuals and a vocal critic of militant Islamists as well as the Egyptian government, was murdered in June 1992, his teenage son also wounded in the attack. A statement by the group al-Gama'a al-Islamiya, which took responsibility, justified the killing because Fouda was an apostate, an advocate of separation of religion and state, and an opponent of the use of Shari'a as Egyptian law. His murderers were defended by a senior theologian, Sheik Ahmad Ghazali, who stated in court that Fouda and "secularists" like him are apostates who should be put to death by the government. If the government failed to carry out that "duty," the Sheik testified, individuals were free to do so.

Other Egyptian writers, such as Nobel Prize winner Naguib Mahfouz, are subject to relentless attacks as "corrupters of youth" and "the filth of the artistic community." Mahfouz, who had publicly denounced the death warrant against Rushdie and supported Anwar Sadat's peace accord with Israel, was "excommunicated" by the *fatwa* of Sheik Omar Abdul Rahman, who demanded that the author denounce his own 1959 novel, *Children of Gebelawi*. The author was recently stabbed in the neck by a militant. In Algeria, the poet and teacher Youssef Sebti was found with his throat cut in his office in an Islamic militant-controlled region in December 1993, while in May of that year, Algerian writer Tahar Djaout was murdered. A university professor was shot after he refused to start his classes with readings from the Qur'an. These are only three of the over 50 Algerian intellectuals murdered since early 1993 because of their secular views. The militants, however, claim the intellectuals are targeted because

they collaborate with the military government, which cancelled January 1992 National Assembly elections that Islamists would have won.

The vigilante cases often shade into the "mixed cases," in which official state pronouncements serve to encourage private actions—or vice versa. For instance, after a committee at state-sponsored Cairo University denied full professorship to Nasr Hamid Abuzeid, he became a target of the same group that had killed Fouda. The committee had determined that his scholarship-on eighth century Islamic writing—had contained "discussions resembling atheism." In Pakistan, a 1986 blasphemy law, which mandates fines, life imprisonment, or the death penalty for anyone who "by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet," has given encouragement to militants. In a move reminiscent of Southern lynchings of African-Americans, a frenzied mob, inspired by a Pakistani cleric, stormed a jail and set fire to a man awaiting trial for burning a page of the Qur'an. He had accidentally slipped and fallen onto a stove while holding the holy book. Several hundred people, including Christians as well as Muslims, have been arrested under the Pakistani blasphemy law; at least two have been sentenced to death.

"Mixed cases" can also operate in the other direction, with the government taking action in response to militant outcries. In Bangladesh, prominent author Taslima Nasrin attained the unofficial title, "the female Salman Rushdie," when the Council of Islamic Soldiers accused her of blasphemy for her latest novel, *Lajja*, and formed a 100-person death squad to kill her. Her fifteenth book, which depicts a Hindu family's torment by Muslims in conjunction with the Babri Mosque controversy in India, sold a remarkable 50,000 copies before the government banned it. In earlier works, she had criticized the treatment of women in Islamic states. Although Bangladeshi society is relatively secular, crowds as large as 200,000 have supported militant demands for her death for allegedly stating in a newspaper—Indian, not Bangladeshi—that the Qur'an should be thoroughly revised to eliminate passages which discriminate against women. She claims she was misquoted, that it is Shari'a that should be revised, not the Qur'an. Despite this significant distinction, on the same day that militants stormed through the city of Dhaka, a local court issued a warrant for her arrest for "deliberately hurting religious

sentiments." After spending two months in hiding from the death squads, Nasrin was offered asylum by the European Union. If her case really parallels Rushdie's, her fears have not ended.

David Lawton, author of a recent book on blasphemy, explains that certain kinds of writing (particularly fiction) are considered blasphemous because "they set out to assert the rights of the new community outside existing law." Religious orthodoxies, of Christian as well as Islamic persuasion, treat such assertions as a dangerous threat. However, "[i]t is not God whom such fictions would affront but the religious community that they seek to transform, and which exercises whatever power it can wield to resist a transformation." Thus, it is a human community not religion or God as such, that "receives" the blasphemy, or feels the victim of it. And in Lawton's view, it is a community "that by its violent response identifies itself as fundamentalist." Sadiq al-Azm, a Syrian philosopher who has studied the recent history of apostasy and blasphemy in the Middle East, essentially concurs with Lawton's observation: "[E]very one of these affairs had far more to do with the affairs of state than the affairs of faith."

The Lawton and al-Azm thesis is aptly illustrated by the Salman Rushdie case, with the qualification that the community whose "rights" are being "asserted" in his writing is not completely "new" but the merger of an emerging, pluralistic, modernized Muslim culture and an old community, the "Godless West," all the more threatening to orthodox Islam for being a known enemy. It is helpful to recall the highly politicized context out of which the Ayatollah Khomeini's February, 1989 apostasy *fatwa* against Salman Rushdie originated. Although Khomeini had ambitions to be recognized as the global leader of an Islamic revolution, only months before the *fatwa* he had been forced to accept a humiliating ceasefire in Iran's eight-year war with Iraq. Rushdie's book *The Satanic Verses* was already banned in South Africa and in his native India, where the book was inspiring riots. In England and Pakistan, however, *The Satanic Verses* would conveniently provide Khomeini with a new *cause celebré*, particularly given Rushdie's vigorous denunciations of Khomeini and his regime. That so few other non-Iranian Muslim institutions officially supported the *fatwa* provides further support for its peculiarly political context.

It was not considered necessary for the non-English-speaking Khomeini or, apparently, any of his advisors, to obtain first-hand evidence by reading the 250,000 word book, which in February

1989 had not yet been translated into Farsi or even Arabic. Nor did the self-appointed adjudicator offer Rushdie the benefit of a trial by a properly constituted tribunal. Even Rushdie's expression of repentence—a means for clemency held out by Shari'a—was disregarded, with Khomeini restating the "duty of every Muslim" to kill him, even if Rushdie were to somehow become the most pious Muslim in the world. That the one million dollar reward (subsequently increased to two million) for assassinating Rushdie was also offered to non-Muslims, and that his non-Muslim publishers, translators, and distributors were also threatened with violence (in some cases, carried out) are factors probably unprecedented in Islamic history. Lest it be thought that the threat of Rushdie's murder is merely idle, the assassination of 59 exiled Iranian dissidents between the revolution of 1979 and the end of 1993, constitute rebuttal testimony.

If the *fatwa*-issuer's motivation had been solely religious and not political, one would expect a closer adherence to the criminal procedure that Islamic law mandates in such cases. Of all the procedural oversights in the Rushdie case, perhaps the most egregious is the extraterritorial application of the accusation and sentence. Shari'a applies only within the Muslim world and can only be administered by Muslim rulers within their own communities. Muslims living outside the *dar al-Islam* are not subject to Islamic law. Rushdie, nevertheless, was born and raised in India, a secular, non-Muslim majority state, and resided and published in England, another secular, non-Muslim state. From a Sunni family, he had never set foot in Shi'ite Iran. In other words, regardless of whether he should have anticipated that orthodox Muslims—either in his own England or in geographically remote locales—would be offended, Rushdie simply did not write the book for them. He did not ask to be subject to their jurisdiction, to be held accountable under the norms of a community he was not part of. But that very rejection—Rushdie's preference for, and renown within, Western secular culture—may be what is most galling to the offended.

A related factor is what makes the Rushdie case so startling and exceptional: its global reverberations. "Whereas such issues [of freedom of belief and of expression] have always been debated, mediated and resolved in relative privacy within relatively homogeneous settings, they are now cast, and demand resolution, at a global, public and publicised level." The Rushdie case is not

merely notorious for its own notoriety, or even because it appears to represent such a stark clash between secular acculturation and religious fundamentalism. It is emblematic, a coalescent microcosm of so many late twentieth-century phenomena: the global communications revolution, global mobility (not coincidentally, *The Satanic Verses*, like its author's life, involves a case of migration), post-colonialism, and transnational terrorism. It is also an exemplar of the distortion of classic Islamic law for contemporary political ends.

While it is not necessary to engage in an elaborate exegesis of *The Satanic Verses* to determine if it really is blasphemous or whether Rushdie is truly an apostate within the parameters of Islamic law, the question of whether the *fatwa* fulfills the purposes of the Shari'a law of apostasy is worth examining. There is no scholarly consensus on whether apostasy was purely a religious or a quasi-political offense, and whether death was its mandated penalty. Even those scholars who contend that execution was used as a punishment for treasonous rebellion against the early Muslim political power and not for apostasy alone would be hard-pressed to find that a solitary book is capable of subverting a political order and threatening its community, whether that community is defined as the 60 million Muslims of the state of Iran or the fastest growing religion in the world today, currently numbering more than 900 million worldwide.

As Rushdie himself has said: "It seems to me that nothing I can do can destroy Islam. . . . How can I unmake Islam? It's not possible. So even if it were my desire, which it isn't, the idea that, somehow, a book should exist which takes a different point of view from that of the imams and be such a dangerous thing, is not convincing to me." Rushdie also claims that he has not rejected Islam, a factor which should be significant in any test for apostasy as a purely religious offense:

> Anybody who reads any of my books knows how powerful the influence of Islam has been. The fact that I would not call myself a religious person doesn't mean that I can reject the importance of Islam in my life. If you come from India or Pakistan, how can you reject religion? Religion is the air everyone breathes. If you're trying to write about that world, you can't make a simple rejection of religion. You have to deal with it because it's the centre of the culture.

Ironically, the fact that Rushdie writes in English, while perhaps absolving him of the charge of deliberately writing to insult and malign Muslims in Iran or in most of the Islamic world, does not necessarily redeem him in the eyes of the Muslims of India, the United Kingdom, or any of its other former colonies who do read English. Moreover, while it may support the technical defense that he had no intention of subjecting himself to the jurisdiction of Islamic law in Muslim majority states, his use of English contributes to the suspicion that he serves as a treasonous agent of the hated, Godless West, a power which could, according to Islamists, be incited by his book to destroy the Islamic political order. And what of the many other alleged apostates writing in Arabic for audiences in Egypt, Algeria, and Pakistan, or drawing pictures for Iranian periodicals? Can they be absolved from the charge of incitement to rebellion?

International law has an answer for this. Both the International Covenant on Civil and Political Rights and the Declaration on the Elimination of All Forms of Intolerance Based on Religion and Belief provide that freedom to manifest one's religion or belief (including nonreligious beliefs) may be subject to limitations prescribed by law which are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. It would appear that under this formulation, a book ban issued in reasonable response to or legitimate anticipation of widespread riots could be justified as a protection of public safety or order. International law encourages the recognition that freedom of expression can vary according to its cultural and religious context.

On the other hand, nowhere does international law authorize the death penalty for apostasy or blasphemous speech (or, indeed, for any crime). It certainly does not sanction it in the application of a religious law that itself leaves so much unsettled as to the penalty for apostasy.

Heretics and Renegades—While the terms "apostasy" and "heresy" are often used interchangeably in popular discussions of Islam particularly when the terms themselves are used to stigmatize, in this chapter the former has been applied to Muslims who have rejected Islamic belief while the latter is used to refer to Muslim believers who advocate internal reform or a heterodox interpretation of Islam. As already noted, heterodox has been a common feature of Islam since its origins in the seventh century.

However, as Mayer has noted, while "premodern Islamic culture was generally tolerant of diverging views on questions of Islamic theology and law, when contemporary Middle Eastern governments have pressed forward with Islamicization campaigns, they have tended to impose a uniform standard of orthodoxy on their Muslim citizens and to reject the legitimacy of the positions of Muslim groups that do not accept what is being presented as the official norms of Islam." Beginning in the nineteenth century, after 900 years in which the "door of *ijtihad*" was effectively closed, a series of Muslim scholars proposed new interpretations of traditional theology. In a synthesis with modernist political and religious thought, they demonstrated that Islam, too, was grounded in libertarian and rationalist values. Responding to challenges posed to Islamic hegemony by Western Christian colonialism, the break-up of Muslim empires, the division into separate nation-states, and the exposure to modern technology and secular consumer culture reformers such as Muhammad Abduh (b. 1849), Sayyid Ahmad Khan (b. 1817), and Ali Abd al-Raziq (b. 1888) hoped their fresh approaches would help revitalize Islamic thought and identity. Posing the question, "whether or not the Law of Islam is capable of evolution," Muhammed Iqbal (b. 1877) argued that "[t]he teaching of the Qur'an that life is a process of progressive creation necessitates that each generation, guided yet unhampered by the work of its predecessor, should be permitted to solve its own problems."

Others such as the Syrian Sadiq al-Azm (b. 1936) and the Iraqi Abd al-Rahman al-Bazzaz (b. 1913) adapted socialism or nationalism to effect more concrete and widespread changes. The jurist Asaf A.A. Fyzee (b; 1899) developed specific rules for a modern reinterpretation of Shari'a. More recently, the sociologist All Shariati (b. 1933) called for a rethinking of Islam and a rereading of the Qur'an in contextual rather than in metaphysical terms. Even King Fahd of Saudi Arabia proposed in 1983 that a global theological review of Islamic law be undertaken in the spirit of *ijtihad,* despite formal doctrine in his country which rejects any novel innovations after the eighth century.

Some of these advocates of a kind of "Protestant reformation" of Islam ran afoul of religious authorities and suffered the fate of heretics. Al-Raziq was condemned by a council of clerics and forbidden to hold public office; the Marxist al-Azm was tried (and acquitted) on charges of provoking religious trouble; al-Bazzaz

was imprisoned, eventually dying in exile, after the Ba'th coup in 1968; Shariati suffered a similar fate after his arrest in Iran in the mid-1970s.

Better known is the story of Mahmud Muhammad Taha, founder and leader of the Republican Brothers movement in the Sudan, who was summarily tried for various anti-state offenses and publicly hung in January, 1985. The Republican Brothers, established in 1945, first worked for the formation of a Sudanese republic independent of Egyptian and British control, which was in fact achieved in 1956. When President Nimeiri declared an "Islamic Revolution" in 1983 which would immediately impose traditional Islamic rules throughout the Sudan, including the one-third that is non-Muslim, Taha and his followers called instead for a liberal, openly-debated, and humanistic revision of Shari'a. Taha's vision was of a socialist, democratic state, in which men and women, Muslims and non-Muslims, would have complete equality. He called his approach the "Second Message of Islam," as it distinguished between the Qu'ranic passages revealed in Medina, which he argued dealt only with circumstances in Arabia at that time, and the Qu'ranic passages revealed in Mecca, which contained an eternal message. This allowed him to justify discarding Shari'a rules which violated modern human rights norms. Spurning violence, Taha and the Republicans used litigation, unsuccessfully, to try to invalidate Nimeiri's Islamization campaign on constitutional grounds.

Although neither apostasy nor heresy were then crimes in the Sudan, Taha's appellate court (rather than the prosecutor) introduced hearsay evidence of the 76-year-old leader's heresy and ordered him executed without the opportunity to repent. This violated Shari'a and multiple articles of Sudan's Constitution, as well as the Code of Penal Procedure's prohibition on execution of persons over 70 years of age. The court also ordered that the "infidel" and "renegade faction" Republican Brothers be banned, their publications seized from libraries and destroyed, and that Taha neither be mourned nor buried in a Muslim cemetery. Nimeiri announced that he supported the execution "on the basis of Shari'ah law to protect the nation from the danger of Mahmud Muhammad Taha and his slander of God and his insolence towards Him and to protect this homeland from heresy." Nimeiri's stance backfired, however, as an international outcry led to his toppling by a popular coalition only three months later.

While cases like Taha's represent the abuse of traditional Islamic law in the employ of contemporary, political power struggles, age-old religious schisms between various Islamic sects continue into the present. Shi'ites comprise about 10% of the current one billion Muslim population worldwide. While they are found in significant numbers in Pakistan and southern Lebanon, as well as predominating in Iran, Iraq, and Azerbaijan, small communities also exist in Yemen (the Shi'ite subsect *Zaydi*), Syria (the *Druze* and *Alnwi* subsects), Saudi Arabia, northern Israel *(Druze)*, Bahrain, India, Oman, Afghanistan, the United Arab Emirates, and Somalia *(Ismailis)*. Kurds, who live in Iran, Iraq, Turkey, Syria, and Azerbaijan, are usually Sunni, which makes them a religious as well as an ethnic minority in Iran and Iraq. In Iraq, where the Sunni minority controls the government, the Kurds, an Indo-European people, are persecuted because of their movement for national and cultural autonomy. Likewise in Iran, where Kurds are ethnically distinct from the 80% Persian majority, they do not appear to be targeted on the basis of their Sunni beliefs per se.

While victimization of Shi'ites is occasionally reported in states such as Bahrain and the United Arab Emirates, the most persistent cases of their persecution are in Iraq and Saudi Arabia. In Iraq, the publication of Shi'ite books and the broadcast of Shi'ite radio or television programs are banned, as are public meetings on Shi'ite holy days. In response to an uprising in 1991, the Iraqi army reportedly destroyed Shi'ite shrines, mosques, and archives and forcibly relocated or "disappeared" tens of thousands of persons. Civilian residences have also been destroyed and water sources systematically poisoned. An American, French, and British "No Fly Zone" was created in 1992 to prevent the Iraqi military from conducting further indiscriminate bombing and other attacks on Shi'ite communities in the southern marshlands. Because the Sunni-dominated Iraqi regime is Baathist and therefore secular, one can speculate that the Shi'ites are suspect for their physical proximity to and religious affinity with arch-enemy Iran, rather than persecuted on religious grounds per se. (As the majority of Iraqi Shi'ites are Arab and not Persian, ethnic discrimination can be ruled out.)

Saudi persecution of Shi'ites, on the other hand, is a somewhat harder case to fathom. Comprising at most 10% of the Kingdom's population, Saudi Shi'ites follow one of three Ayatollahs, two from Iraq and the late Khomeini from Iran. The Kingdom follows

the Wahabi interpretation of the Hanbali school of Sunni jurisprudence, which strongly condemns polytheism, defined broadly to include many non-Wahabi beliefs and rites, including Shi'ism because of its worship of imams. Eighteenth-century Wahabis once defaced the tomb of Ali's son Hussein. As in Iraq, Shi'ite publications, broadcasts, and public gatherings are prohibited. Even more invasively, objects used in Sh'ite prayer are confiscated and their users beaten, while the Shi'ite call to prayer (which differs from the Sunni version only by the addition of eight words referring to Ali) is considered "contrary to pure Islam" and punishable "with no leniency." Public school textbooks and officially sanctioned *fatwas* routinely denigrate the Shi'ite faith, while government-sanctioned forced conversions and numerous cases of arrest and torture have also been reported. Moreover, almost every year since 1979 during the *haj* or pilgrimage to Mecca, conflicts, often violent, have broken out between Shi'ites or other minority sects and the Saudi military. Iranians have frequently been arrested on charges of agitation or deported before completion of their *haj*. Because the pilgrims often carried placards with Khomeini's photograph or loudly chanted about extending his Islamic Revolution, it has been difficult to label the disputes either solely religious or solely political. Clearly, at least, the rise of Khomeini threatened to usurp the place of the wealthy Wahabis as the most religiously and politically influential Muslim school of interpretation.

Perhaps the Muslim sect most persecuted today is the one million member Ahmadi of Pakistan, founded as an Islamic revivalist movement in India in 1889 by Mirza Ghulam Ahmad, who claimed to be the messiah and whom followers treat as a prophet. That is anathema to orthodox Muslims, who fervently believe that Muhammed was the Final Messenger of God. Opposed to the use of violence, the Ahmadis were the target of a 1953 pogrom incited by Muslim clerics. In 1974, Pakistani Prime Minister Zulfikar Ali Bhutto agreed to amend the constitution to declare the Ahmadis non-Muslims. A 1984 decree made it criminal for Ahmadis to call themselves Muslims and their places of worship mosques, to use Islamic terminology or the Muslim call to prayer, to proselytize their beliefs or merely to say the name of the Prophet Muhammed. The decree was challenged in the Federal Shari'a Court by group members sentenced to three years imprisonment and heavy fines. In a peculiar analogy to trademark law, the Court held that the law was not contrary to the Qur'an or Sunna, nor

that it violated the rights to freedom of religion and to equality. Only one judge viewed the decree as violating fundamental human and constitutional rights. Over 100 Ahmadis, including a baby, have also been arrested and subjected to death sentences under the Pakistani blasphemy law, described above. These official acts have inspired harassment by vigilantes such as the "Finality-of-the-Prophet Youth Force," forcing many Ahmadis into exile in the U.S. and Canada.

Muslim history teaches that Islam is simultaneously capable of both sectarian diversity and sectarian intolerance. Sects that slaughtered each other's leaders and followers in the seventh and eighth centuries today use the power of state-sanctioned legislation and judicial decision to accomplish similar purposes: spiritual supremacy and physical domination. While all religions have the right to define their own membership, the difficulty is knowing where to draw the line between differences of opinion and outright heresy. Not so perplexing is knowing what is an appropriate sanction. Although international law, as noted above, is less than forthcoming on the specific subject of internal religious pluralism, it clearly denies the purported right of religious orthodoxy to punish heresy and dissension through criminal sanction or any form of physical or psychological coercion. While threats to public order may, in appropriate cases, justify a limitation on the public expression of heretical religious views, a Muslim regime that uses a religious rationale to silence its political enemies abuses both human rights and its Muslim cultural heritage.

Non-Muslims and Infidels—Of the three categories of religious dissident, this final one may be the most politically charged today, representing as it does the clash between Islamic and Western value systems, while undergirding if not fueling the Islamic revivalist movements. For instance, the word "jihad," which has multiple meanings in traditional Islamic thought, today carries the exclusive connotation in the Western mind of "terrorism," the result of both uneducated simplifications by the media and deliberate appropriation of the term by radical Palestinian and other militant groups based everywhere from Algeria to Somalia. Connoting virtually everything from moral self-scrutiny to agricultural transformation to an analogy to the Protestant ethic to outright genocide, the very ambiguity of "jihad" has been exploited for maximum propaganda use, most effectively when directed at two or more audiences simultaneously.

Somewhat less politicized today, or at least less notorious, is the term *dhimmi*. Only in the formally Islamic states of Saudi Arabia, the Sudan, Iran, and Oman are non-Muslim minorities afforded an officially unequal status under law; distinctions between *dhimmi* and non-*dhimmi* minorities are also lawful in these countries. Such discrimination, of course, is incompatible with the norms of international law and contrary to the modern conception of the pluralistic nation-state. In more secularized Muslim countries, as in most other societies in the post-apartheid era, religious discrimination tends to be *de facto* rather than *de jure*. Non-Muslims are now eligible for citizenship in every Muslim state except Saudi Arabia, although with the exception of the occasional Fariq Aziz of Iraq or Boutros-Ghali of Egypt (both Christians who rose to prominence in their respective foreign ministries), non-Muslims rarely share in political power or social influence. While no less invidious, religious persecution which is not officially sanctioned by state law allows governments to disavow responsibility, blaming such acts on ostensibly eradicable, ancient, culturally-based prejudices.

The classical *dhimma* system had been given reinforcement in the fifteenth century when the Ottoman Empire, under Muhammed II, introduced the *millet* system, which confined Orthodox Christians, Armenian Christians, and Jews in communities more segregated and hermetically sealed than they had been under the Khalifahs. The religious leaders of these non-Muslim groups were held responsible for all acts and activities, both secular and religious, of their members, none of whom were eligible for civilian office on the imperial level. The *millets* were not abolished until 1856, by which time their cultural influence was established in what would become modern-day Turkey, Syria, Lebanon, Israel, Iraq, Iran, Jordan, Egypt, all of North Africa, Greece, and the other Balkan states, and parts of India and Russia. It was at this same time in the mid-19th century that the *jizya* tax, paid by *dhimmis* in lieu of military service, was abolished in Egypt. However, another 1856 Egyptian decree prohibited any building or renovation of Christian churches without presidential permission, which has never been readily granted.

Whether on account of the *dhimma* and *millet* systems, or purely for purposes of political expediency, non-Muslims still serve as scapegoats in parts of the Muslim world, as when Mummar Qaddafi blames "Christians, non-believers and Jews" for a war in

Afghanistan in which Muslims killed fellow Muslims during the holy month of Ramadan. Recent reports of persecution of Christians, both official and vigilante-based, come from Iran, Indonesia, Saudi Arabia, and Pakistan, as well as Egypt and the Sudan. Islamists seek to revive the most demeaning of the *dhimma* rules by calling on Muslims to shun Christians and to refuse to shake their hands, wish them well on Christian holidays, or walk on the same sidewalk.

Of the one dozen separate Christian denominations that reside in the Middle East today, the largest and most consistently persecuted are the two Coptic Churches, found in both Catholic and Christian Orthodox forms. Constituting about 10% of the population of Egypt, with smaller communities in Ethiopia and the Sudan, the Copts are extremely endogamous, insisting on a separate existence in order to maintain their pre-Muslim, non-Arab, ancient Egyptian lineage. Before the arrival of Muslims in about the year 640, Egypt was a Christian province of the Byzantine Empire. Early Muslim-Coptic relations there were mutually respectful. Centuries later, Copts supported Egyptian nationalist movements which sought independence from British and French colonial rule.

But Muslim Egyptians began to resent the Copts for what was perceived as favoritism by the Western imperial powers. In the early eighteenth century, waves of Coptic refugees were forced to flee Egypt for the Sudan. More recently, Egyptian Copts have been the targets of Islamic revivalists and other militants, beginning with the breakdown of pluralistic Egyptian life in the 1950s, under President Nasser and later under President Sadat. In 1957, the Coptic community formally protested against restrictions on the building of churches and discrimination in housing, land distribution, and the holding of public office. In 1972, planned provocations against the Copts were publicly announced by the Egyptian Ministry of Religious Affairs. The lowest blow was delivered in 1981 when Sadat exiled the Coptic pope, censored the Coptic press, and held Coptic bishops and priests under house arrest after they defended their community from violence incited by Islamic militants. In the last few years, Egyptian Islamists have attacked and killed numerous Copts, publicly harassed them and prevented them from performing religious rituals and celebrating social events. Copts have also been harassed and tortured by state security forces for attempting to convert Muslims to Christianity.

In the Sudan, where they live mainly in the north, Copts were, because of their solid economic status, traditionally considered a prestigious minority and treated equally in most respects except in their ability to marry Muslims. Although Sudanese Copts initially welcomed Nimeiri's military government, which temporarily supported their community there, as his and then his successor Bashir's Islamization campaigns progressed, Copts became both targets and critics of Islamization. They objected to the imposition on them of Shari'a rules, such as the strict *hudud* penalties, and to being made second-class citizens in their own country. Seen as "fifth columnists," in the late 1980s hundreds of Copts were dismissed from civil service and judicial positions, their churches closed, and their children persecuted in schools for refusing to recite from the Qur'an or to wear Islamic dress. Young Coptic men have been conscripted into the army and forced to fight the government's jihad in the south of the country, which is directed at their fellow Christians (Catholics, Episcopalians, Presbyterians, and others), as well as the non-Muslim African animists who compose the majority of the southern population. After a Coptic airline pilot, Giorgis Yustus, was summarily tried and executed in 1991 on grounds of possessing foreign currency, hundreds of Copts fled the country.

Have Copts and other Christians become the special target of particularized Muslim prejudice, perhaps as symbols of the infidel West—or are they simply being treated in accordance with traditional *dhimma* rules in a time when international norms reject such unequal standards? (*Dhimmis*, it will be recalled, were entitled to protection of their life, honor, and property, including the sanctity of their holy places.) This question may also be asked in reference to the estimated 75,000 Jews still living in Muslim countries. In medieval times, Jews and Muslims mutually enjoyed a culturally-synergetic, economically-prosperous, persecution-free era in the Iberian peninsula that has been called "the Golden Age of Spain." But a historical change in Muslim treatment of Jews occurred, which Bernard Lewis ties to Muslim resentment that the Western colonial powers were favoring non-Muslim minorities. This favoritism allowed indigenous Christians, as well as Jews, to achieve positions of power and wealth that were a subversion of the proper *dhimma* relationship. But in the case of Jews, Lewis believes, the hostility reflected an additional element: "From the late nineteenth century, as a direct result of European influence, movements appear among Muslims of which for the first time one

can legitimately use the term anti-Semitic. Hostility to Jews had, of course, roots in the past, but in this era it assumed a new and radically different character."

Muslims picked up from European Christians some of the classic anti-Jewish caricatures of long-nosed money-bags and old canards, such as blood libels and plots to gain world domination. The first Arabic edition of the notorious forgery, *Protocols of the Elders of Zion*, appeared in 1927, followed by translations of classic Nazi works. From exile, the Ayatollah Khomeini harped on these themes, calling Jews "cursed," a "dirty people," and "a disgrace" to work for, even though such employment was legally permissible. Interestingly, once his revolution in Iran was achieved, Khomeini tempered his rhetoric, perhaps because Jewish scapegoats no longer served his political purposes.

Lewis points out that a major element in the development of Muslim anti-semitism was the Palestine question and the establishment of the state of Israel. But in its origin it is a political conflict, not a religious or ethnic one, even though, at times, the traditional imagery of anti-semitism has been used in Muslim attacks on Israel. Zionism's role in the resulting deterioration in Arab state/Jewish minority relations should therefore not be exaggerated, he believes. In fact, Jews living in Arab countries in the period before 1948 had usually been anti-Zionist or agnostic on the question, either out of genuine opposition to a Jewish state or fear for their own security as vulnerable minorities. When they did finally become adherents, it was as much in response to Arab persecution as for any other reason.

Here, too, as in so many previous examples, religious themes, doctrines, and rationales are intertwined with political slogans, motivations, and objectives. While most frequently it has been a religious veneer that has served to camouflage a political core, in the case of Jewish minorities it may sometimes have been the reverse. A final case, that of the Baha'is of Iran, is perhaps the most enigmatic of all in this regard.

The Baha'i faith was founded in Persia in 1863 by Baha'u'llah, a follower of the Bab, who two decades earlier had prophecized the coming of Islam's "Twelfth Imam," who would prepare humanity for the universal divine Messenger that is anticipated by all the major scriptural religions. Baha'u'llah, who claimed to be God's messenger, preached that humanity is a single race and a single religion, which should be unified into one global society,

organized through a world federal system. His other principles included the elimination of all prejudice, gender equality, elimination of extreme poverty and wealth, universal education, the harmony of science and religion, and a sustainable balance between nature and technology. The faith would have no clerics or individually powerful leaders; all decisions would be made by democratically elected, collective assemblies. Baha'is, moreover, would be obedient to civil government but forbidden to engage in partisan political activity.

These teachings were very popular in nineteenth century Persia and therefore threatening to both the secular and religious authorities, particularly given the direct challenge to Shi'ism over determination of the Twelfth Imam. Baha'u'llah was accordingly imprisoned and then banished, while the Bab and 20,000 followers were executed as apostates. Baha'is, who today number over five million in more than 232 countries and dependent territories, believe that the Bab and Baha'u'llah are the latest in a series of God's messengers, who have included Abraham and Moses, Krishna, Buddha, Jesus, and Muhammed. To Muslims, this is heretical and blasphemous, as they consider Muhammed to be "the Seal of the Prophets," God's final messenger. Moreover, Baha'i egalitarianism challenges the Shari'a's strict notions of gender differences, not to mention Shi'ite Islam's formal hierarchy of clerical power. However, while acknowledging that the faith originated in Persia among Muslims, Baha'is claim theirs to be an independent religion, not a sect of Islam. This makes their case a kind of mirror image of the persecuted Ahmadi Muslims of Pakistan, whom Islamic authorities treat as an independent religious minority, not a sect. Both Ahmadis and Baha'is follow a prophet who post-dates Muhammed, without, however, denying or denigrating his teachings. Regardless of their own respect for Muhammed, each group risks being treated as apostates from or blasphemers of Islam—despite their claims to heterodox, in the case of the Ahmadis, or to being non-Muslims, in the case of Baha'is.

The 1979 Iranian constitution, as noted, formally recognizes Jews, Christians, and Zorastrians but makes no mention of Baha'is, who constitute Iran's largest religious minority, even though, as a scriptural monotheism, the Baha'i faith should be entitled to *dhimma* status. There is little doubt, however, that Baha'is are the most persecuted minority in Iran. Since 1978, more than 200 Baha'i

administrative officials or teachers have been executed (including two teenage girls), sometimes after summary trials in abstentia, or otherwise stoned or burned to death. Hundreds of others have been imprisoned and tens of thousands have been dismissed from civil service jobs and universities and deprived of pensions and businesses. Baha'i administrative structures have been banned and holy places and cemeteries destroyed, confiscated, or vandalized. In 1993, a secret document surfaced which confirmed that these acts were all officially sanctioned by Iranian President Rafsanjani and the state's religious leader, Ali Khamenei.

Iranian officials have been inconsistent in the justifications employed in their campaign to "block" Baha'i "progress and development," the language used in the secret document. Sometimes overtly religious grounds are used, as when the words "Enemy of Islam" were found written on the leg of a Baha'i executed in 1981, or when the Attorney General said about death penalties carried out that same year: "The Qur'an recognizes only People of the Book as religious communities. Other are pagans. Pagans must be eliminated." Before execution, Baha'is are often pressured to recant as apostates—another indication of the religious basis of their persecution. On the other hand, the Iranian government has also charged Baha'is with supporting the late Shah's regime and collaborating with his secret police; engaging in prostitution, adultery, and immorality; and serving as agents of Zionism. In actuality, Baha'is were also persecuted by SAVAK and the Pahlavi regime; the criminal charges stem from the government's refusal to recognize Baha'i marriages and from the mixed seating at Baha'i gatherings; and from the coincidental location in Haifa, Israel of the Baha'i World Center, established in the nineteenth century at the instructions of the exiled Baha'u'llah.

The Iranian government has gone to great lengths to portray the Baha'i faith as a political movement committing political crimes. It claims to permit freedom of belief by Baha'i individials while criminalizing their conduct when they associate collectively within Baha'i institutions. However, as noted by Mayer, this conceptual distinction is itself circular under the Iranian constitution, which explicitly defines political crimes in accordance with "law, [which is] based upon Islamic principles." In other words, political crimes are whatever Iran's politico-clerical leaders say they are.

Iranian policy—like all such oppressive policies described in this section—also fails the test of international law. Freedom of

religion is protected "either individually or in community with others and in public or private," and includes the right "to manifest [one's] religion or belief in worship, observance, practice and teaching," all of which are performed in group settings. As in the case of all persecuted non-Muslim religious minorities, discrimination on the basis of religion or between religious groups is expressly prohibited. Moreover, the existence of a state religion does not legitimize any such discrimination.

Conclusion: Revivalism, Liberalism, or Synthesis?

This chapter has examined religious dissidents in Muslim societies and the policies and practices of Muslim authorities, both classical and contemporary, in respect of the right to religious freedom. While acknowledging some conceptual overlap, it has classified religious dissidents according to whether they are former believers ("apostates and blasphemers"), heterodox believers ("heretics and renegades"), or non-believing religious minorities ("infidels"). Classical Islam had separate rules of treatment for each of these three categories of people. The following conclusions are drawn from this study.

First, Islam is not, and has never been, a monolithic religious or cultural system. As early as the year 656, only 24 years after Muhammed's death, divisions and heterodox interpretations began to emerge, including some particularly democratic and tolerant ones. The undifferentiated Muslim image may have been created by the intensity with which the orthodox varieties of Islam have struggled to repress dissent—if not due also to Western ignorance about the religion. "The blanket labeling of Islam as a fundamentalist threat is dangerous, because it plays into the purposes of the Islamists themselves. Such stereotypical thinking tacitly accepts the assertion of fundamentalist ideologues that they represent the *real* Islam. It also lends credence to the Islamists' insistence that there is a kind of primal, irreconcilable hostility between Islam and 'the West' that inevitably makes them archenemies."

Second, Islam is capable of internal reform. *Ijtihad*, or creative interpretation, is a classic Muslim methodology for adapting archaic or obsolete doctrines, including those derived from divine revelation. Resistance to such adaptation is not mandated by the original sources of Shari'a themselves but only by later authorities who benefited from the continuation of outmoded doctrines. (An example of a tenet—of questionable authenticity in its own right—

which is ripe for reinterpretation is that execution is the punishment for apostasy. Why is capital punishment necessary for the occasional rejectionist when Islam is no longer a tiny, threatened tribal creed but the world's fastest growing religion?) The rediscovery of early, heterodox schools of thought, such as that of the democratic Kharijites, could revitalize Islam and bring it new admirers.

Third, throughout Muslim history, and particularly in the contemporary era, much of the persecution of alleged apostates, heretics, and infidels has been politically motivated, designed to benefit hegemonic, orthodox groups who have resorted to religious justifications to legitimize their abusive power. As stated by the Jordanian journalist Rami Khouri: "The modern tradition of Arab police states and oligarchies is far from traditional Arab culture; it is a distortion engendered largely by the circumstances of mid-20th century history, when Arab individuals, families and clans were either handed governmental power by the retreating European colonial powers or seized it soon after and maintained their incumbency in association with the armed forces. . . ." Therefore, it is improper to conclude that Islam is inherently militant, violent, coercive, or intolerant. While it may have some anti-ecumenical tendencies and an unusually fierce commitment to monotheism, it is hardly the only religion that has killed or oppressed in its own name.

Finally, Muslim dissidents and religious minorities in Muslim lands need and deserve more support from international human rights movements. The same is true for those within orthodox Muslim circles who are willing—but for their fear of persecution—to criticize abuses of human rights by their governments. Similarly, the international media must avoid giving undue prominence to violent Muslim militants, which in reality are small in number, and give proportional attention to liberal Muslim groups, albeit fledgling, who oppose violence, favor democratization and seek to promote accommodation and reform.

Or is support for Islamic liberalism futile? After all, economic, political, and demographic trends seem to augur the worsening of the very conditions that have led to support of Islamic militancy: "[S]tate political brutality, humiliation by Israel and the West, economic disparity. . . the stresses of brisk social transformation and Westernization, ... the burgeoning mass of uneducated, unskilled, displaced, and often unemployed urban slum dwellers,

along with the shrinking, increasingly worried and resentful middle class and educated professionals who were unsatisfied with the Westernization of their societies." Put another way, is Muslim democracy possible? Does it require an almost oxymoronic "Islamic secularism," an unprecedented Muslim rejection of the intermingling of mosque and state and acceptance of Western-style individualism, or the creation of a kind of Islamic Protestantism or a Muslim version of the Second Vatican Council?

Whether or not these developments are possible, probable, or even necessary for the protection of religious freedom, it is certain that any new belief system that eventually emerges will have to be authentically Muslim in form and content, developed indigenously rather than externally imposed, to have any chance of taking hold.

11

An Apologia For Religious Human Rights

For all too long, religious human rights have been given short shrift in both the debate over and the struggle for human rights throughout the world. It is the purpose of this chapter, therefore, to offer an apologia for religious human rights, for such rights lie at the heart of the struggle for human rights around the world and involve the very sanctity of the human person. An apologia for religious human rights also stands to strengthen the cause of human rights in general.

The term "religious human rights" is used here interchangeably with the term "religious liberty." By religious human rights are meant the inherent right of a person in public or in private to worship or not to worship according to one's own conscience, understanding, or preferences; to profess and to propagate one's faith; to join in association with others of like faith; and to change one's religious identity—all without hindrance, molestation, or discrimination. Religious human rights require the equality of all religions, as well as irreligion, before the law, and that, according to the law, a citizen neither enjoys advantages nor suffers disadvantages because of one's religious faith or identity.

Historically and ideologically, religious rights and political rights are inextricably intertwined, a point which will be advanced

later in this chapter. For now, let it be said that the very emergence of the concept of religious human rights, more familiarly referred to as religious liberty, was the inevitable result of a way of thinking about the nature of religion and the nature of the state.

The recognition of religious human rights as a valid principle in law has become one of those axiomatic commitments that is almost universally shared among the family of nations; this recognition is surely one of the major achievements of this century. While there is overwhelming evidence to indicate that religious human rights or religious liberty are far from being an existential reality in most of today's world, and nowhere fully realized, religious liberty has become a normative principle for most of the nations of the world and, conversely, the denial of religious liberty is almost everywhere viewed as morally and legally invalid. Consequently, guarantees of religious rights and religious liberty presently appear in the vast majority of the national constitutions throughout the world today, including (except for Albania which outlawed all religions during the years of 1967-1989) even those governments committed to atheistic communism or irreligion. Although respect for religious rights and religious liberty—namely the absence of discrimination based upon religion or belief and the equality of all religions before the law—can hardly be said to be descriptive of conditions as they exist in most countries of the world today, there is profound significance to be found in the fact that the concept of religious liberty has come to have normative value almost universally.

Despite an almost universal commitment to religious human rights, as witnessed in the United Nations Declaration of Human Rights in 1948 and, even more explicitly, in its Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief of 1981, there is no universal consensus as to their intellectual or philosophical basis. While religious human rights or religious liberty in broad principle have come to be widely endorsed in both national constitutions and in international law, there is no universal consensus as to their rational or philosophical basis. To be sure, there are important political and practical reasons for arguing the case for religious rights and religious liberty, which will be noted later in this essay, but even those political or practical reasons need ultimately to be rooted in some philosophical principles and not depend primarily, not to mention solely, on political expediency.

Religious Human Rights and Early Religious Teachings

An apologia for religious human rights may be found, first of all, in the early teachings of the religions themselves. While the emergence of religious human rights or religious liberty, although nowhere completely realized, is a relatively modern phenomenon, the concept of religious liberty has a long, albeit tortuous, history. The notion of religious rights is one to be found in the teachings of the great world religions, even though it has been far less descriptive of the history of the religions themselves. Even tolerance has not been characteristic of the history of religions.

Since religion generally served as the basis of one's identity as a member of the tribe, the community, or the nation, one's religious identity virtually formed the basis of one's differentiation from membership in another tribe, community, or nation and from the world at large. What is more, religion often became the root cause of intergroup conflict between tribes, communities, and nations—for example, Israelites and Canaanites, Christians and Romans, Sikhs and Hindus, Muslims and Jews, Eastern Orthodox and Roman Catholics, and Catholics and Protestants. In this way, religion fostered division and not unity, conflict and not concord, and at the heart of this division or conflict has been each religion's perception of the truth, whether based upon its claims of prophetic revelation, some mystical experience(s), or a rational apprehension of existence. The very historical particularity of religion did not make for tolerance or the recognition of religious human rights outside of one's own religious tradition. Each religion generally claimed, or at least assumed, a uniqueness or superiority of its own even when it maintained a posture of inclusivity and embraced some form of syncretism in its philosophical or theological propositions of truth.

Nonetheless, it is well here to acknowledge that voices against intolerance and respect for religious human rights may be traced back even to the ancient world. In arguing the case for religious human rights today, it should not be overlooked that there are explicit teachings of tolerance and condemnation of religious coercion and disrespect for religious views other than one's own to be found in the major world religions. Furthermore, these teachings from the religions themselves stand to serve as helpful reminders to their adherents today that the sacred writings of their religious traditions' endorsing religious human rights may constitute a basis for interfaith relations based upon mutual respect

and good will even dialogue. In addition, these teachings provide support for constitutional and legal provisions on religious human rights that are being increasingly called for in both national and international law. Obviously, however, these teachings from the major world religions in support of religious human rights need to be lifted above the historical and nationalistic expressions of the religions themselves and to serve as a call to their adherents to be true to the ethical norms and teachings of their respective faiths with regard to religious human rights and religious liberty.

In the ancient teachings of Hinduism, for example, intolerance and the very denigration of the religious rights of other faiths are expressly condemned. Basic to the Hindu tradition is the declaration, "Truth is One; sages call it by different names." Or again, from Hindu Sacred Writings, "Ignorant is he who says, 'What I say and know is true; others are wrong.' It is because of this attitude of the ignorant that there have been doubts and misunderstandings about God. It is this attitude that causes dispute among men. But all doubts vanish when one gains self-control and attains tranquility by realizing the heart of Truth. Thereupon dispute, too, is at an end." The ancient Sacred Writings of Hinduism affirm not only that tolerance and respect are to be shown those of other religious traditions, but also these writings reason that tolerance and respect are rooted in the belief that there is good to be found in all religions. "Like the bee, gathering honey from different flowers," Hindu Scriptures declare, "the wise man accepts the essence of different scriptures and sees only good in all religions." In the words of one of Hinduism's most renowned twentieth-century thinkers and apologists, Sarvepalli Radhakrishnan, "The faiths of others all desire to be honoured for one reason or another. By honouring them, one exalts one's own faith and at the same time performs a service to the faith of others. By acting otherwise, one injures one's own faith and also does disservice to that of others. For if a man extols his own faith and disparages another, because of devotion to his own and because he wants to glorify it, he seriously injures his own faith."

Similarly, Buddhism is deeply rooted in the concept of religious freedom and respect for religious human rights. A charitable attitude toward all religious views and their adherents is encouraged. The founder of Buddhism, Siddhartha Gautama, urged that his followers not bear ill-will toward anyone who spoke ill of him. Rather, Gautama declared, "If any-one were to speak ill of me or my doctrine or my Order, do not bear ill-will

towards him, do not be upset or perturbed at heart; for if you were to be so, it will only cause *you* harm." Again, to quote from Buddhist Scriptures, "The Buddha says, 'To be attached to a certain view and to look down upon other views as inferior—this the wise men call a fetter [i.e., a wrong]." In teaching respect for all believers, Gautama declared, "If a man says 'This is my faith; so far he maintains truth. But by that he cannot proceed to the absolute conclusion: This alone is Truth, and everything else is false." In the Sacred Writings of one Buddhist sect in Japan, the Omoto Kyo, is to be found the following: "There is not a single place in all the corners of the world where God is absent." The first of the great world religions to become international, Buddhism has demonstrated throughout much of its history a spirit of tolerance and a respect for religious human rights in its encounters with other faiths.

Still other ancient religious traditions call for respect to be shown toward those of other faiths. In the Scriptures of Jainism, founded like Buddhism six centuries before the dawn of Christianity, appears the following: "Those who praise their own doctrines and disparage the doctrines of others do not solve any problem." Jains are admonished in their sacred scriptures to "comprehend one philosophical view through comprehensive study of another one." This regard for other religious traditions is affirmed also in Confucianism. "In the world there are many different roads," Confucius said, "but the destination is the same. There are a hundred deliberations but the result is one."

The tradition of Judaism has long contended for religious human rights. In Judaism, the very covenant which God established with Israel affirmed that God's love is for all people, and purposed that through that covenant, "All the families of the earth are to be blessed." In the Holy Scriptures of Judaism, which are, of course, also viewed as Sacred Scripture by those in the Christian tradition, are these words: "For from the rising of the sun to its setting my name is great among the nations, and in every place incense is offered to my name, and a pure offering; for my name is great among the nations, says the Lord of hosts." In the *Tosefta,* Rabbi Joshua is recorded as saying, "There are righteous men among the nations who have a share in the world to come." The ultimate ground for respect for all human rights in Judaism is to be found in its teachings concerning the infinite worth of every person or the sanctity of every individual life. Respect for

divergent faiths is clearly and explicitly affirmed in the Talmudic writings of Judaism. In the Mishnah are to be found these words, "Therefore, was a single person [first] created to teach thee that if anyone destroys a single soul. . . . Scripture charges him as though he had destroyed a whole world, and whosoever rescues a single soul. . . Scripture credits him as though he had saved a whole world. , . . The Holy One has stamped all mankind with the die of the first man and yet not one of them is like to his fellow. Therefore, everyone is bound to say, 'For my sake was the universe created.'" One of Judaism's most beloved and respected scholars in this century, the late Rabbi Abraham Heschel, was fond of saying, "God's voice speaks in many languages"—a view widely shared in Judaism.

In Christianity, religious tolerance and the sanctity of religious rights may be found, as with Judaism, in the affirmation that all of humanity is created in the image of God. Beyond that, Christian Scripture categorically declares that "God has not left himself without witness" and speaks of "the true Light, which lighteth every man that cometh into the world." Religious tolerance and respect for religious rights may be found also in Christian Scripture in the manner of God's dealings with all human beings. Peter, one of the disciples of Jesus who early became a leader of early Christianity, is quoted as saying, "God has shown me that I should not call anyone common or unclean." "Truly I perceive that God shows no partiality, but in every nation anyone who fears him and does what is right is acceptable to him." Between Jews and Gentiles, Paul also declared, "God shows no partiality." A person's capacity for freedom, the Scripture maintains, is from God. As Paul wrote, "Where the spirit of the Lord is present, there is freedom." The very invitation of Jesus throughout the Gospels is repeatedly conditioned with the words, "whosoever will. . . ." or "if you want to. . . ," words which by their very nature constitute an invitation born out of respect for the human will in matters of religious belief. God's very approach to all of humankind is perhaps nowhere in Christian Scripture more clearly portrayed than in the last book of the New Testament, *The Revelation,* in which respect for the inviolability of the religious rights of every person is presented dramatically and unequivocally: "Behold I stand at the door and knock; if any person hears my voice and opens the door, I will come into his house and eat with him, and he will eat with me."

In Islam, the Qur'an categorically declares that "there shall be no compulsion in religion." The Qur'an further declares that belief

is ultimately a matter of personal choice: "Proclaim, O Prophet, This is the truth from your Lord; then let him who will, believe, and let who will, disbelieve." Tolerance toward other religions is explicitly enjoined on those who follow the Qur'an, as follows: "Revile not those deities whom the unbelievers call upon and worship." Indeed, according to the teachings of the Qur'an, Muslims can respect the believers and the teachings of all religions-even those not mentioned in the Qur'an, such as Hinduism, Buddhism, Jainism, and Confucianism. According to Islam, a person's freedom to choose is prerequisite to faith. Again, in the words of the Qur'an, "If it had been the Lord's will, all the people on the earth would have come to believe, one and all. Are you then going to compel the people to believe except by God's dispensation?"

Similar teachings may be found in Scriptures of Sikhism, whose founder, Nanak, declared, "Search not for the True One afar off; He is in every heart." According to Sikhism, people of God are to be found in all religions. The Scriptures of Sikhism declare, "There are those who read the Vedas and others—Christians, Jews, Muslims—who read the Semitic scriptures. Some wear blue, some white robes. Some call themselves Muslims, others Hindus. Some aspire to *bahishat* [Muslim heaven], some to *swarga* [Hindu heaven]. Says Nanak, Whoever realizes the will of the Lord, he will find out the Lord's secrets!"

While these citations from the teachings of the religions hold special significance for the formulation of an apologia for religious human rights, at the same time, it must once again also be acknowledged that the spirit of tolerance and respect for religious human rights have not, by any means, been historically characteristic or descriptive of the religions themselves. Alas, none of the world religions has lived up to its own teachings with regard to religious human rights. This is readily observable in the history of Christianity, not only with respect to religious human rights, but also with respect to its original teachings on peace and its repudiation of the use the sword or violence. The disparity between the teachings of the religions and their historical expression is simply undeniable. This disparity between faith and practice has plagued all of the world religions, which, without exception, have all too often been but pale shadows, sometimes even perversions, of their true essence. As alluded to earlier, the historical record of the religions has often been one of contradiction to the teachings cited above. Admittedly, the sanctity of the rights

of the individual person and the basic human right to religious self-identity have been flagrantly and repeatedly violated by the religions themselves. In fact, the hallmarks of the history of religion have been intolerance not tolerance, conformity not nonconformity, and assent and not dissent.

It cannot be denied that for more than a thousand years the history of Christianity was marked by intense intolerance and persecution of Jews and all religious dissenters, who were readily branded as "heretics." It is no exaggeration to say that in the broad sweep of history more wars have been fought, more persecutions have been carried out in the name of religion than for any other single cause. As one historian has succinctly expressed it, "Nowhere does the name of God and justice appear more frequently than on the banner and shield of the conqueror." Nevertheless, despite any disparity between the history of the religions and their sacred writings, an apologia for religious human rights needs first to recognize the presence of the concept of religious human rights in the scriptures of the major religions themselves, since these writings provide for each of the religious traditions the authoritative teaching norms of the faith. Even from this brief sampling, there are clearly valuable resources to be found in the great world religions to show that the concept of religious human rights, far from being an alien concept, is expressly endorsed within the very core of the teachings of the major world religions.

Religious Human Rights and the Nature of Religion

An apologia for religious human rights is not only to be found in the sacred writings of the major religions of the world, but is also directly linked to the nature of religion. For this reason, religious intolerance is antithetical to religion and is, indeed, religion's worst adversary. To believe is a *voluntary* act. To be true to itself, authentic religion must wait upon the voluntary responses of persons who are free of coercion in order for religious faith to be genuine and to be true to itself. Recognition of this was conceded by the early church fathers. Near the close of the second century, Justin Martyr, who argued for the principle of the *logos spermatikos*, namely that the seed of the divine word is also present outside of the Christian tradition, perceptively wrote, "Nothing is more contrary to religion than constraint." In the third century, when Emperor Septimus Severus issued a decree in 202 forbidding

conversion to Christianity, Tertullian wrote that freedom of religion is a fundamental right. "It is a matter of both human and natural law," he declared, "that every man can worship as he pleases . . . . It is not in the nature of religion to impose itself by force," but "should be adopted freely." Almost a century later, and with considerable insight into the nature of religion, Athanasius declared, "It is not with the sword and spear, nor with soldiers and armed force that truth is to be propagated, but by counsel and sweet persuasion." Similarly, Lactantius, the tutor of Emperor Constantine's son, argued that "it is only in religion that liberty has chosen to dwell. For nothing is so much a matter of free will as religion, and no one can be required to worship what he does r ot will to worship. He can perhaps pretend, but he cannot will."

During the Middle Ages, when religious liberty existed nowhere in Europe, Marsilius of Padua, a Catholic lawyer, eloquently argued in the fourteenth century that coercion is completely foreign to the nature of religion and that religious convictions by their very nature cannot be forced. No religious authority has the right to exercise coercion for compliance to religious commandments. "For it would be useless," Marsilius wrote, "for him to coerce anyone to observe them, since the person who observed them under coercion would be helped not at all toward eternal salvation." "For Christ did not ordain that anyone should be coerced to observe in this world the law made by him, and for this reason he did not appoint in this world a judge having coercive power over transgressors of his law." "Even if it were given to the bishop or priest to coerce men in those matters which relate to divine law, it would be useless. For those who were thus coerced would not be helped at all toward eternal salvation by such compulsion." As with earlier voices for religious liberty, Marsilius espoused religious liberty as a matter of principle and viewed religious liberty as an essential feature of authentic religion.

Two centuries later, Desiderius Erasmus, the great Catholic humanist and irenicist, wrote similarly that the use of coercion is contrary to the nature of religion and, therefore, he argued for "the futility of persecution." In a letter to John Carondolet, Erasmus wrote, "When faith is in the mouth rather than in the heart, when the solid knowledge of Sacred Scripture fails us, nevertheless by terrorization we drive men to believe what they do not believe, to love what they do not love, to know what they do not know. That which is forced cannot be sincere, and that which is not voluntary cannot please Christ."

Special tribute must always be given to the Radical Reformers who championed voluntarism in religion and its corollary the separation of church and state, that is, the separation of religious affairs from temporal power and the denial of the use of temporal power in religious matters. The voices of the Radical Reformation for religious liberty were predicated upon the uncoerced response to the gospel. This, they held, was essential for the *esse* of the true church. Thus, the use of coercion in religion was opposed. "A Turk or a heretic," Balthasar Hubmaier wrote, "is not convinced by our act, either by the sword or with fire, but only with patience and prayer; and so we should await with patience the judgment of God."

Writing a century later in England, in a book which boldly set forth for the first time in the English language the right of universal religious liberty, Thomas Helwys argued that the nature of religion removed it from the jurisdiction of the civil ruler.

> Our Lord the King is but an earthly King, and he hath no authority as a King, but in earthly causes, and if the Kings people be obedient & true subjects, obeying all humane lawes made by the King, our Lord the King can require no more: for men's religion to God, is betwixt God and themselves; the King shall not answere for it, neither may the King be jugd betwene God and Man. Let them be heretikes, Turks, Jewes, or whatsoever it apperteynes not to the earthly power to punish them in the least measure.

Similarly, a few years later, Leonard Busher, a member of the first Baptist congregation of England, wrote also in opposition to the use of temporal power in religion: "It is not only unmerciful, but unnatural and abominable, yea, monstrous, for one Christian to vex and destroy another for difference and questions of religion."

The voluntariness of religious faith has come to be increasingly recognized in contemporary thought. Reaffirmation of the voluntary character of religion has been clearly affirmed, for example, in twentieth-century Christian ecumenical thought. The World Council of Churches has on various occasions seen religious liberty as integral to the nature of religion and religious faith. "God's redemptive dealing with men is not coercive. Accordingly, human attempts by legal enactment or by pressure of social custom to coerce or eliminate faith are violations of the fundamental ways of God with men. The freedom which God has given. . . implies a free response to God's love. . . ." In the words of Vatican II, "God

calls men to serve him in spirit and in truth; hence they are bound in conscience, but they stand under no compulsion."

The heart of the matter is that for religion to be authentic, it must be a voluntary, personal, and free act, and membership in a faith community is one of voluntary association. Faith is not faith if its voluntary character is abridged by coercion. As Augustin Leonard, a Catholic theologian, wrote, "An imposed faith is a contradiction in terms. . . faith must be free if it is not to destroy itself." Recognition of religious liberty is fundamental to religious human rights and, indeed, to all other human rights. In the words of the late A. F. Carrillo de Albornoz, for some years the Secretary of the Secretariat on Religious Liberty of the World Council of Churches, "No intellectual ingenuity, no organized institution, no kind of compulsion and no power of persuasion can change the fact that God deals with men as free and responsible beings and that he expects from them an uncoerced response." Or, as A Albert Hartmann expressed it, "A person's one and only means of learning God's will is the voice of one's conscience." The right to religious identity and to a personal religious faith, including association with others of like faith, requires voluntariness. Religious human rights are thereby undermined and vitiated whenever any form of external coercion is superimposed on the individual.

Religious Human Rights and Human Dignity

A compelling argument for religious human rights is to be found in the sanctity of the human person and respect for the inviolability of the human conscience, for together they constitute the basis of a limited state and a free and democratic society. The Preamble of the United Nations Universal Declaration of Human Rights (1948) rightly speaks of "the inherent dignity. . . of all members of the human family" and "the dignity and worth of the human person." The Preamble common to both the International Covenant on Civil and Political Rights (1966) and the International Covenant on Economic, Social, and Cultural Rights (1966) declares, "These rights derive from the inherent dignity of the human person." While the sacredness of personhood is widely acknowledged as the foundation of all human rights, it has particular meaning in the exercise of one's sense of the sacred, that is, one's religious faith. Soren Kierkegaard wrote with profound insight that "man is himself primarily and genuinely in his free choice."

The intrinsic worth of the human person is simply too sacred to be violated by religious coercion or enforced conformity, which are a denial of the dignity and worth of a person. If religious human rights are to have any real meaning, there must be legal recognition on the part of the state of the inalienable right of a citizen to decide matters of ultimate beliefs and commitment for oneself. As the World Council of Churches affirmed at the time of its founding almost forty years ago, "The nature and destiny of man. . . establish limits beyond which the government cannot with impunity go." And as Vatican II also rightly proclaimed, "The protection and promotion of the inviolable rights of man ranks among the essential duties of government."

Inextricably bound to the sanctity of the human person is the concept of liberty of conscience. Marsilius was perhaps the first to recognize the right of conscience both as a natural and a political right. Although religious liberty in the modern world is deeply rooted in religious thought, it stems from the concept of "liberty of conscience," a phrase of modern origin which came into use after the sixteenth century. Even though the Protestant Reformation, by and large, did not espouse the principle of religious rights or religious liberty, it did represent a revolt against both established religious as well as political authority and, in turn, fostered the emergence of new nation-states and a new national spirit throughout Europe and Great Britain. As is well known, however, the Reformation was, first of all, rooted in a revolt against established religious authority. When his views of Christian Scripture were challenged by the ecclesiastical authorities of his day, Martin Luther proclaimed, "I cannot and will not recant anything, for it is neither safe nor right to go against conscience." For, "I am more afraid of my own heart than the Pope and all his cardinals." Aided by the humanism of the Renaissance, a bold new spirit of freedom in religion appeared, which inevitably gave rise to the cry, "faith is free." Gradually the principle of religious liberty was forthrightly affirmed, leading finally to an insistence upon "the competency of the individual under God in all matters of religion." Religious liberty was proclaimed as both a natural and a divine right. Furthermore, it was argued, religious liberty demanded civil liberty and civil liberty required liberty of conscience. "Give me the liberty to know, to think, to believe, and to utter freely, according to conscience, above all other liberties," wrote John Milton in his great work *Areopagitica* in 1644.

In their plea for religious liberty, however, the Free Churches contributed greatly to the emergence of liberty of conscience as the basis for religious liberty. In the words of Franklin H. Littell, "The most direct contribution of the Free Churches to the individual citizen, whether church member or not, was in the establishment of liberty of conscience." As generally used then, as now, liberty of conscience claimed the inherent right of each person to follow the dictates of his or her own conscience without interference from civil authority or reference to popular opinion. In his monumental and trenchant work, *History of Freedom*, Lord Acton wrote that liberty of conscience is "the assurance that every man shall be protected in doing what he believes [to be] his duty, and against the influence of authorities and majorities, custom and opinion."

In the Western world, liberty of conscience has been based upon two fundamental principles. First, freedom of conscience is held to be a natural and sacred right of all persons, inalienable, a domain which the true state must protect and into which it must not lightly intrude. Whereas the final aim of religion is truth, the ultimate goal of the state is freedom, or what Baruch (Benedictus) Spinoza called, "the true aim of government." The second axiom is that because conscience is a natural and sacred right, innate and universal, no person is to be above another in the freedom of its exercise. All persons are equal in rights as in duties, which human authority cannot take away in the case of the former, and to which it cannot add in the case of the latter.

Recognition of the religious right of liberty of conscience means the acknowledgment of one's right to believe or not to believe a religious dogma; to worship one God or many or not to worship; to be a member of a religious association or of none; and the "free exercise" of religion, without civil disabilities, so long as such exercise is not deemed to be detrimental to the basic fabric of society and the security of the state.

By its very etymology, conscience refers to moral awareness or moral insight, by which one experiences the impulse to do right and experiences restraint from doing wrong. The very nature of religion requires that it be rooted in conscience, which theologians have termed a "gift" or the "voice" of God. The Westminster Confession of Faith, Section XX, "Of Christian Liberty and Liberty of Conscience" (left unchanged in the American version) affirms the following:

> God alone is Lord of the conscience; and hath left it free from doctrine and commandments of men, which are in any thing

contrary to His Word—or beside it, if matters of faith or worship. So that to believe such doctrines or to obey such commandments out of conscience, is to betray liberty of conscience; and the requiring an implicit faith, and an absolute and blind obedience, is to destroy liberty of conscience, and reason also.

More than a half century ago, United States Supreme Court Chief Justice Harlan F. Stone wrote, in the *Gobitis* case, that if the constitutional guarantees of liberty "are to have any meaning they must. . . be deemed to withhold from the state any authority to compel belief or the expression of it where that expression violates religious convictions." For the state to intrude on the inviolability of conscience is for the state to assume a role of transcendency and ultimate power that belong only to the Divine. Religious human rights can never be secure if the state and state institutions, even if supported by the collective will of majorities, are allowed to ignore the rights of conscience. For recognition of liberty of conscience lies at the heart of a free and democratic society and is a check on political absolutism. As Henry David Thoreau wrote more than a century ago, "There will never be a really free and enlightened State until the State comes to recognize the individual as a higher and independent power, from which all its own power and authority are derived, and treats him accordingly. I please myself with imagining a State at least which can afford to be just to all men."

Religious Human Rights and the Secular State

An apologia for religious human rights is to be found in the concept of the secular state. There is both an historical and a philosophical connection between religious human rights and the secular state. The secular state is one in which government is limited to the *saeculum* or temporal realm; the state is independent of institutional religion or ecclesiastical control and, in turn, institutional religion is independent of state or political control. It is a state that is without jurisdiction over religious affairs, not because religious affairs are beneath the concerns of the state, but rather because religious concerns are viewed as being too high and too holy to be subject to the prevailing fallible will of civil authorities or to popular sovereignty. In application, the secular state is one, which denies the use of political means to accomplish religious ends or the use of religious means for the accomplishment of political ends. Because its power is limited to temporal affairs,

the relationship of the state to religion should be one of neutrality, toward both the various faith communities and to irreligion, a state where citizens are neither advantaged nor disadvantaged because of their religion. It is a state where government is denied the right of domination over the institutions of religion and the institutions of religion are denied the right of domination over the state.

Like religious liberty, the emergence of the secular state reaches back through the centuries. Throughout its history, until the modern era, the idea of the secular state has been closely related to the history of Western civilization. Historically, it has meant the repudiation of the Christian or religious state and stands, therefore, in contrast to the concept of national identity based upon a particular religious tradition, whether the Christian, the Hindu, the Buddhist, the Shinto, the Muslim, or the Sikh state. Inherent in the view of the secular state is the clear separation of spiritual and temporal powers—the religious and civil covenants—and the institutions of religion and the state. What is more, the secular state requires that the authority and jurisdiction of the state be limited to the secular or temporal realm. In the case of the secular state, the basis of the state's authority is civil and natural law, not religious decree or any claim of divine authority or divine law. All claims of a particular political authority as being based on a divine right, whether by a monarch or some other political entity, are expressly eschewed. Similarly, all claims of a nation's being a religious state are viewed as incompatible with the concept of the secular state.

One of the major architects of the concept of the secular state was Marsilius of Padua, the renowned Roman Catholic thinker of the fourteenth century. In his great treatise, *Defensor Pacis*, published in 1324, Marsilius vigorously challenged the claims of the supremacy of the church over the state and likewise rejected the notion of the Christian state or *mundus Christianus*. He did so on the basis of a sharp distinction, which, he argued, must be made between divine and human law. He insisted that the state must be founded upon law inherent in nature, and that the church should not have jurisdiction over the state. Clearly ahead of his time, Marsilius held thus:

> Laws derive their authority from the nation, and are invalid without its assent. As the whole is greater than any part, it is wrong that any part should legislate for the whole; and as men are equal, it is wrong that one should be bound by laws

made by another. But in obeying laws in which all men have agreed, all men, in reality, govern themselves. . . . He [the monarch] is responsible to the nation, and subject to the law; and the nation that appoints him and assigns him his duties, has to see that he obeys the Constitution, and has to dismiss him if he breaks it.

Marsilius not only upheld the notion of the secular state, he denied the right of the church to have or to exercise temporal power. He maintained that since Christ and the apostles did not claim temporal power, neither must the church. Furthermore, he argued, divine law cannot be enforced or established by temporal power; only God is the judge of divine law. Therefore, no form of temporal coercion may be used to enforce conformity in religion. Because of the nature of the secular state, which is limited to the temporal realm, and the very nature of divine law which cannot be coerced, there can be no coercion in religious matters. "The rights of citizens," Marsilius wrote, "are independent of the faith they profess; and no man be punished for his religion." Of the state, he argued that "the source of law is to be found, not in any divine right or rulers, not in any superior wisdom of any class or society, but in the whole of its citizens." Although the ideas of Marsilius on the secular state and religious liberty were almost entirely ignored for two centuries, "Marsilius's ideas," as one constitutional law scholar wrote, "were destined to have a profound influence not only on those who later were responsible for the Reformation, but also on the founders of modern constitutional history."

Two centuries later, out of the Radical Reformation, there arose a reform movement built upon the concept of the voluntary church, the church of the redeemed, *corpus Christi*, comprised of persons voluntarily committed to Christ, rather than the *corpus Christianum*, or Christendom, in which membership in the church and the community or state were virtually made conterminous. This left wing of the Protestant Reformation furthered the notion of the secular state. For, unlike the Magisterial Reformers, the Radical Reformers championed the principle of voluntarism in religion, believer's baptism, and a voluntary or gathered church comprised of those committed to Christ, the corollary of which was nothing less than the institutional separation of the church from the state. The faith they proclaimed and its propagation were predicated upon an uncoerced response to religious witness. This, the radical reformers held, was essential not only for authentic

religion, but also for the *esse* of the true church. In an admonition to Jacob Sturm of Strassburg, Caspar Schwenckfeld, many of whose spiritual descendants would later come to America, wrote in 1549 as follows: "Civil authority has no jurisdiction over the Kingdom of God; that government was divinely ordained for the sole purpose of maintaining an orderly life in human society, but has no right either to influence or to interfere with religious convictions; the individual is accountable to Jesus Christ as the head of the Kingdom of God."

The concern of the Radical Reformation was not individual rights as such, which came to be espoused later by John Locke, the Enlightenment, and John Stuart Mill, but in the removal of the power of the state over religion. As church historians Roland H. Bainton, Franklin H. Littell, and George H. Williams, among others, have clearly shown, the "left wing of the Reformation" was dominated by one common characteristic—the espousal of religious liberty and the denial of the state's jurisdiction over religion.

The realization of the secular state—although long advocated by certain political and social philosophers, Anabaptists, and certain other religious groups—did not finally occur until the inauguration of the "livelie experiment" of Rhode Island. Here, for the first time, under the dominant influence of Roger Williams, an essentially secular state was established, with full political rights guaranteed to all regardless of their religious beliefs, as Williams said, "for the good of the whole."

The acknowledged architect of the American tradition of the separation of church and state, Williams sought to provide a theological basis for the secular state. The authority of the state, Williams argued, is "not religious, Christian, etc., but natural, human, [and] civil"; and therefore it is "improper" for the state to prescribe or proscribe matters of conscience and religion. "All Civil States with their Officers of justice in their respective constitutions and administrations are proved essentially Civil, and therefore not Judges, Governors or Defenders of the Spiritual or Christian State and Worship." "Therefore," Williams argued, "No civil state or country can be truly called Christian, although true Christians be in it." Thus, Williams denied the right of any state to be Buddhist, Hindu, Jewish, or Muslim. To Williams, church and state must be separate not only for the church to be the church, but for the state to be the state, for God to be God, and for Christians to be Christian. "An inforced uniformity of Religion

throughout a Nation or civil state," Williams declared, "confounds the Civil and Religious, [and] denies the principles of Christianity and civility. . . ." Consequently, Williams held that compulsory and tax-supported religion is unchristian, that biblical Israel is not a model state for Christians, and that equality of all persons and groups before the law is a fundamental responsibility of all civil government.

Through John Locke, the view of the secular state was given still fuller expression, not on the Christian theological basis of liberty, but on the basis of natural rights, not upon mere popular or democratic sovereignty, but upon constitutional government. The starting point for Locke's political thought was not the state, but the individual. Every person is born with natural rights to life, liberty, and property. The authority of the state is derived from the consent of the governed, for example through mutual agreement or social contract, and is not subordinate to ecclesiastical power. The truth is that the state was created by individuals for their own conscience—for the protection of private property and the "execution of. . . laws. . . for the public good." All laws, Locke reasoned, are always accountable to the citizens and political absolutism is "inconsistent with civil society." Therefore, the power of all government is inevitably limited by the natural rights of a person as an individual. To Locke, the secular state is essentially a limited state, a view still held to be quintessential to the meaning of the secular state.

Although the concept of the secular state exerted considerable influence in England and France during the Age of Enlightenment, the United States became the first nation in history to adopt constitutionally the pattern of the secular state, wherein government is prohibited from jurisdiction over religious matters or from denying "the free exercise of religion," there is to be no religious test for public office, all religious groups are equal before the law and are to be free from discrimination or preferential treatment, and all religious groups are regarded by the state as private and voluntary associations. The secular state is to be neutral toward religion and irreligion and is to recognize its utter incompetence in purely religious matters. It seeks neither to promote nor to inhibit religion, and views religious identity as being irrelevant to the rights of citizenship. More than 120 years ago, in the first real church-state case to come before the United States Supreme Court, the Court declared,

> In this country the full and free right to entertain any religious belief, to practice any religious principle, and to teach any religious doctrine which does not violate the laws of morality and property, and which does not infringe personal rights, is conceded to all. The law knows no heresy, and is committed to the support of no dogma, the establishment of no sect. The right to organize voluntary religious associations to assist in the expression and dissemination of any religious doctrine, and to create tribunals for the decisions of controverted questions of faith within the association, and for the ecclesiastical government of all the individual members, congregations and officers within the general association, is unquestioned.

With regard to the secular state, it should be remembered that the *concept* of the secular state was not born out of hostility toward religion. Rather, hostility toward religion is incompatible with the nature of the secular state, since it is uncommitted in matters of religion or ultimate belief. Rather, the secular state is rooted in the inalienable right of conscience and the principle of voluntarism in religion. That there is tension, even conflict, between church and state—the religious community and the political community—is not only inevitable, but is one to be welcomed. For the person of religious faith should be especially aware that the tensions between the faith to which one is committed necessarily transcend the historical context in which a person lives within any given society or nation-state. This is a conflict that can never be completely resolved because of the very nature of religion, which is rooted in religious vision of becoming or change, both for the person and society. At the same time, the concept of the secular state is in harmony with both the freedom of religion and freedom of the state. For these reasons, it is argued, the secular state is best for religion and best for the state, and substantially secures the freedom of both. When viewed in historical perspective, the emergence of the secular state may be seen as of major historical significance to the emergence of religious human rights and religious liberty in the modern world.

Religious Human Rights and Other Human Rights

An apologia for religious human rights is to be found in the special relationship that religious rights have to all other human rights, both individual and social. This arises from the sanctity or intrinsic worth ascribed to the human person (even when personhood is defined in radically different ways as in the various religious traditions), which ultimately form the basis of all human

rights. It is the sanctity or intrinsic worth of the person, whether explicitly acknowledged or not, that form the basis of democracy and constitutional government in which some principle of human rights is accepted as inalienable and, therefore, as binding on government. Religious human rights are rooted in the inviolable sacredness of the human conscience. Each human being has juridical rights because he or she possesses certain inalienable moral rights as a person. And basic to all human rights are religious rights, without the guarantee of which, it is argued, all other human rights are in peril.

It is widely conceded that religious liberty is a basic human right. As noted at the beginning of this chapter, religious liberty has become a normative principle for virtually all nations, as expressed in their constitutions. While there is a sense in which all human rights, both individual and social, may be said to be indivisible, there is clearly a special place to be given religious human rights in the widening horizons of understanding of human rights in contemporary society throughout the world. This is not in any way intended to diminish the critical role to be played on behalf of economic and social rights, as well as other civil and political rights, in the overall struggle for human rights, for all human rights are ultimately interrelated. Religious human rights are integral to the advancement of all other human rights because of their intimate grounding in the nature and sacredness of the human person. For this reason, as affirmed in American jurisprudence and in much ecumenical thought, religious liberty is made the virtual cornerstone of all other human rights. On numerous occasions since World War II, ecumenical conferences, including those held even outside the West, have affirmed that "the most fundamental freedom is religious freedom."

For many reasons, too numerous to be expanded upon here, religious liberty is widely regarded as the foundation of all other civil liberties and is fundamentally interrelated to all other human rights. In the words of the World Council of Churches, "religious freedom is the condition and guardian of all true freedom." Without religious freedom, it is obvious the freedom of speech, freedom of press, freedom of assembly, and freedom of association are endangered. Without recognition of religious human rights, the very right of dissent is in jeopardy. And, in the words of a former Chief Justice of the United States Supreme Court, Charles Evans Hughes, "When we lose the right to be different, we lose the right to be free."

Respect for religious human rights is profoundly important in the state's regard for other human rights and its view of the worth of its individual citizens. Indeed, by respecting *religious* rights, the state is giving substantive expression to its regard for the dignity and worth of its citizens. Such recognition is not only an acknowledgment of the state's limited political authority, as over against the claims of the totalitarian state, but is quite likely to result in giving far greater recognition to other human rights, both civil and political, economic and social. It is entirely reasonable to argue, in the words of the late A. F. Carrillo de Albornoz, that

> respect for the highest values or loyalties of man (which are the religious ones) will be the final "test" and also the best guarantee of the respect for all other human values. If, for instance, a totalitarian state does not recognize even the most sacred sphere of religion and the most intimate human autonomy, it will most probably not stop before other less important values and less intimate spheres. In this sense it seems perfectly correct to affirm that, if society does not respect religion and its liberty, one does not have any security that the rest will be respected.

With the adoption by the United Nations of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, the United Nations went out of its way to note that such discrimination must be regarded not only as an "affront" to human dignity, but also a "disavowal" of the very principles of the Charter of the United Nations and a violation of the other freedoms guaranteed in the Universal Declaration of Human Rights. As noted earlier, religious human rights are not only individual, but also corporate and social, since they must include the right of religious association and the free exercise of religion within a social context. Recognition of religious rights as the cornerstone of all human rights—civil, economic, and social—augurs well for the emergence of free and pluralistic nation-states in which respect for both individual and social rights may be realized.

Religious Human Rights and the International Community

Finally, an apologia for religious human rights may be found in the recognition accorded religious rights in the norms of international law and by international agreements affirming these rights as an international standard among signatory nation-states, such as The Universal Declaration of Human Rights (1948), The

International Covenant on Civil and Political Rights (1966), The Principles of the Helsinki Final Act (1975), and The Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981).

Although religious liberty was long advocated by individuals and religious dissenters, who at least sought religious freedom for themselves, full religious liberty was nowhere legally realized until the modern era and, even today, is far from being a reality in most of today's world. As late as World War II, one worldwide study declared, "No writer asserts that there is a generally accepted postulate of international law that every State is under legal obligation to accord religious liberty within its jurisdiction." Today, religious liberty has come to be recognized as an accepted postulate in international law.

It is of profound historical significance that following the organization of the United Nations in 1945, concerted efforts were soon directed toward the formulation of the principle of religious liberty as a fundamental right to which all member nations were to subscribe—a recognition of the vital relationship of religious liberty to relations between states. As is well known, one of the basic principles included in the Charter of the United Nations is that of "the dignity and equality inherent in all human beings." Therefore, all members nations "pledged themselves to take joint and separate action in cooperation with the Organization to promote and encourage universal respect for an observance of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion."

Three years after its founding, the United Nations General Assembly adopted the "Universal Declaration of Human Rights" in which it gave specific attention to a person's right to religion as a basic human right. Article 2 affirmed that everyone is to be entitled to all the rights and freedoms in the Declaration without respect to religion. Article 18 declared, "Everyone has the right to freedom of thought, conscience, and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance." In various forms, this portion of the Declaration has been incorporated in the national constitutions of many nations, particularly in the nations emerging since 1948.

After more than four decades of consultation and negotiation, the United Nations Assembly in November 1981 adopted the

"Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief," in which the religious rights of the "Universal Declaration of Human, Rights" were affirmed. In addition, the 1981 Declaration categorically declared that "no one shall be subject to discrimination by any State, institution, group of persons or person on grounds of religion or other beliefs." Such discrimination, the Declaration went out of its way to note, must be regarded as not only an "affront" to human dignity, but also a "disavowal" of the principles of the Charter of the United Nations and violation of the freedoms guaranteed in the "Universal Declaration of Human Rights." Thus, at long last, religious human rights were given explicit recognition in the family of nations as an inviolable and sacred human right.

The growing recognition of religious liberty in international law was accompanied by broad ecumenical endorsements of religious liberty by the churches. With the convening of the First Assembly of the World Council of Churches in Amsterdam, in 1948, a clear voice for religious rights and religious liberty was sounded in a document titled, "Declaration on Religious Liberty." The Declaration called on the churches "to support every endeavor to secure within an international bill of rights adequate safeguards for freedom of religion and conscience, including the right of all men to hold and change their faith, to exercise it in worship and practice, to teach and persuade others, and to decide on the religious education of their children." The Declaration further asserted that religious liberty is "an essential element in a good international order. . . . [that] should be secured everywhere. In pleading for this freedom," the Declaration declared, "[Christians] . . . do not ask for any privilege to be granted to Christians that is denied to others." Adopted unanimously, the Amsterdam Declaration remains a landmark in the history of religious liberty and must be credited with having exerted some influence on the final adoption a few months later of the "Universal Declaration of Human Rights" by the United Nations.

Subsequent assemblies of the World Council of Churches have not only reaffirmed the Amsterdam Declaration but have continued to give voice to the Council's commitment to religious rights and religious liberty. Likewise, the endorsement of religious liberty by the Roman Catholic Church in Vatican II remains a significant chapter in the advancement of religious human rights. Affirming both the natural right of corporate religious freedom as well as individual religious freedom, Vatican II declared that "the right to

religious freedom has its foundation in the very dignity of the human person" and that a person "should not be coerced to act against his own conscience, nor be impeded to act according to this conscience" and religious communities "have the right not to be hindered from publicly teaching and testifying to their faith both by the written and the spoken word."

Here it should be remembered that historically pleas for religious toleration and religious liberty have come primarily from religious minorities and dissenters, the religiously disenfranchised, and the religiously persecuted. At the same time, let it be noted, that the major advances toward the recognition of religious human rights and religious liberty in the modern world have come not from religious confessions of faith, councils, or synods, but from constitutions, legislative bodies, and courts of law. After the Middle Ages, the emergence of new nation-states and a new national spirit weakened the political power of old religious establishments to a degree from which they generally could not recover. In widely varying degrees, religious liberty became inexorably linked to the modern democratic state. In the twentieth century, among both the communities of faith and nation-states throughout the world, a broad consensus gradually evolved toward support of the principle of religious liberty, at least in some form.

Legal recognition of religious liberty has been particularly aided, both in principle and in practice, by international relations that resulted in the ratification of treaties between states. As one major study on religious liberty written almost fifty years ago affirmed, "International law and religious liberty grew in intimate association." The study found that a substantial majority of the writers of general treaties on international law following the time of Hugo Grotius, long recognized for his work as a codifier of international law, specifically referred to religious liberty in their documents. In the nineteenth century, with sovereign states identified with different religious traditions, it became common in the drawing up of treaties to include provisions granting the right of religious expression to the nationals of each contracting party in the territory of the other. Since these foreign nationals were identifiable by both their nationality and their religion, it was inevitable that specific safeguards came to be provided for freedom of conscience, worship, and religious work "upon the same terms as nationals of the state of residence," to use a phrase common to many of these international treaties with provisions of religious liberty.

There are many examples of the role of international agreement in the advance of religious liberty. The Treaty of Berlin of 1878 at the close of the Russo-Turkish War, with its provisions for the equal rights of religious minorities, has been called "the most important single expression of international agreement for religious liberty" prior to the post-World War I era. Similar guarantees of religious liberty were embodied in the General Act relating to African Possessions (signed at Berlin in 1885) and the Minorities Treaties of 1919-23, following World War I. More recently, thirty-five nation-states in 1975 signed the Helsinki Final Act (The Final Act of the Conference on Security and Cooperation in Europe) in which religious rights were made an integral part of a major international agreement between thirty-five nations of Europe, Canada, and the United States. Principle 7 of the document gives special attention to "respect for human rights and fundamental freedoms, including freedom of thought, conscience, religion, or belief." Meanwhile, more and more states throughout the world voluntarily entered into constitutional and treaty commitments to secure religious liberty for their own citizens as well as for foreign residents. With the increasingly wide geographical distribution of adherents of the world's major religions, the religions themselves challenged those national policies' denying the religious rights of their adherents and communities of faith.

Indeed, the principle of religious liberty has increasingly become one of those axiomatic commitments that is almost universally recognized. In at least some modified form, the principle of religious liberty has come to be affirmed by virtually all national governments as a part of national law. Even if highly restrictive, some guarantees of religious liberty now appear in almost all national constitutions throughout the world.

Nonetheless, religious liberty and respect for religious human rights remain far from realized in most of today's world. Ironically, the very century that has witnessed the emergence of religious liberty and religious human rights as norms in international law and virtually universally recognized in principle has been the very century in which religious rights and religious liberty have repeatedly and flagrantly violated on a wholesale scale throughout much of the world. For the first time in human history and for much of this century, governments came into power with a sworn hostility to religion and expressly dedicated to the eradication of all religion.

For the new democracies of both old and new nation-states, religious human rights—religious liberty—are Increasingly being recognized as crucial to a free society as seen most recently in the emerging democracies of the New Europe. Throughout the New Europe, for example, constitutional reform commissions have been involved in providing guarantees of religious rights and religious liberty, along with a broad range of other human rights. In some countries, permanent standing committees have been named by parliaments to address on an ongoing basis, questions relating to new laws on religion. While there are many complex and difficult questions yet to be resolved, the subject of religious human rights or religious liberty has become, as never before, a subject that is being addressed as fundamental in the movements of nations toward democracy and freedom. Among the questions inextricably intertwined with religious rights and religious liberty is one of ethnic identity, which in many countries throughout the world is virtually conterminous with the rights of religious minorities.

Summary

In this chapter, an apologia for religious human rights has been proposed as a necessary foundation for arguing the case for religious human rights, all the more so since religious human rights are all too often slighted in many of the dialogues and discussions on human rights. An apologia for religious human rights has been presented in this chapter from a variety of perspectives. The concept of religious human rights is one to be found in the teachings of the great world religions, although far less descriptive of their history. Nevertheless, voices against intolerance and for religious human rights may be traced back to the ancient world. The case for religious human rights may also be found in the nature of religion since authentic religion must wait upon the voluntary responses of persons who are free of coercion in order to be true to itself. A compelling argument for religious human rights may be posited in the sanctity of the human person and the inviolability of the human conscience. It has also been argued in this chapter that the emergence of the concept of the secular state—a state uncommitted in matters of religion and ultimate belief in which religion enjoys institutional independence from the state—is one in which government is denied jurisdiction over religion and religious freedom is essentially assured. Attention is also given in this essay to the special relationship that religious rights have to all other human rights, both individual and social.

For without guarantees of religious human rights all other human rights are in peril. Finally, it is argued, that an apologia for religious human rights may be found in the recognition accorded these rights in the norms of international law and international agreements.

The issue of religious human rights is one of growing significance in today's world. The growth of religious pluralism is worldwide and constitutes one of the major challenges facing all of the religions of the world today. The increasing presence of multiple faiths in secular societies makes religious isolation impossible and interfaith encounters inevitable. The worldwide distribution of communities of virtually all of the major religious traditions exacerbates the concern of all religions for guarantees of religious liberty and the protection of the religious rights of their own adherents and thereby for religious minorities generally.

To be sure, the call for the recognition of religious human rights in the world community needs to be sounded by the religions themselves as well as by instruments of national and international law. The international dimension of the major world religions holds the promise of effecting important gains not only for the advancement of religious human rights, but also for genuine interfaith dialogue and collaboration on behalf of religious freedom and the building of a world community. Religious liberty, like world peace, is not only a moral imperative worthy of universal support of religions around the world, it also needs to be seen as essential for the creation of a world community and may well prove to be crucial in the survival of the human family.

It is to be fervently hoped that the words of the Charter of Paris for a New Europe, signed by thirty-four member nations of the Helsinki Final Act, in which religious freedom and other fundamental freedoms are made "the brithright of all human beings . . . inalienable, guaranteed by law" may become realized throughout the world.

12

Religion and Human Rights:
A Theological Apology

In our deliberations on the reciprocal relationships of religion and human rights, one key issue is the question of whether there are any common ethical standards, especially in an emerging global society where multiple religions, the sources and sustainers of morality in most cultures, encounter both each other and a variety of doubts about the place of religion in the common life. On the one hand, the concept of human rights stands in the modern world as a set of universalistic ethical norms that state ideals for all human societies. They identify first principles and goals by which the community of nations may legitimate (or delegitimate) various legal systems or cultural practices (including religious ones, where religions are viewed as part of a culture), and limit the use of state power against persons and groups.

On the other hand, the very idea of universalistic norms is viewed by some as nothing more than the imposition of some particular set of religio-cultural values on the other peoples of the world. That is due to the fact that in most of human history and in much of the world still today, ethical norms are rooted in religious orientations that seldom embrace human rights except insofar as they advance the particular religion. The idea of ethical principles standing beyond religions, cultures, and societies, and able to evaluate and alter them, is to many a strange and hostile

notion. Such an understanding of ethics requires that we tie thought and faith together in a philosophical theology, which is able to defend itself in public discourse, critically evaluate the relative adequacy of various religions on key questions, and provide the deep guidance system for complex societies and cultures.

What an irony we face. Modern articulations of human rights were born out of the attempt to constrain the great barbarisms of the twentieth century. In this context, ancient insights, which had been obscured or suppressed, were retrieved and made the basis for what is today called human rights. For the most part, the surge of interest in human rights that occurred after World War II turned to the formulations of human rights and democracy that grew out of the Enlightenment. However, it was only sometimes noted that these developments were themselves rooted in previously established theological assumptions that derive from antiquity—which the Enlightenment had claimed to overcome. While the great thinkers of the Enlightenment were familiar with the ancient sources, their heirs were not. Hence, the interpretations of human rights that have come to triumph in the West are both derived from and opposed to their deeper religious roots. They nearly always ignore the greatest contribution of faith to human rights: namely, that some religious positions in alliance with selected philosophical traditions developed a transcendental view of the world and began to conceive of it as a whole, and thus to recognize that there is a perspective which is beyond the time and space, culture and society, religion and morality which we inhabit when we imagine the unity. If we grasp something of this perspective, or are grasped by it, we think and experience theologically, and see the nature of justice more clearly, for we see it *sub species aeternitatis*.

If the world is a unity, and we can conceive of it as a whole—this, of course, means that we transcend it in some degree and do not simply live within it, trapped by its horizons—then we begin to suspect that it is governed by a unified moral law, even though the customs and habits of many people in the world and their ways of modeling the whole differ. Further, these customs, habits, and models can be altered according to a more ultimate and reliable pattern. The most pertinent developments of modernity, in this view, have to do with the recovery, radicalization, propagation, and relative institutionalization of an ethical vision of this sort. The late twentieth century has been the period in which these principles have become spread throughout the world. Human

rights provisions are now built into the constitutions of more peoples than any previous civilization could have imagined, and are among the decisive criteria as to whether a religion, a culture, a regime, or a society should be honored or altered, isolated or revolutionized.

However, this has also been the century in which we have faced dramatic challenges to these ideas. These challenges have taken and continue to take many forms—most notably the quests for the solidarity of a particular community against such universal and transcendental claims. Indeed, the greatest struggles of the twentieth century are of this order—one against the pagan anti-modernism of Hitlerian-Fascist National Socialism, another against the secularist hyper-modernism of Marxist-Leninist Proletarian Socialism. Each manifested itself in massive political-military movements that became the chief threats to human rights and to modernity in this century. Both have, in substantive measure, been defeated, although, like all great terrors, they writhe in their bonds and threaten to reappear from their graves in new forms.

For instance, a direct challenge to human rights from these defeated forces appeared in a .new conspiracy of anti-modernists and hyper-modernists who, while having apparently abandoned the Nazism of Hitler's politics and Communism of Stalinist economics, now join the internal entrepreneurs of Asia's "liberalizing" economic policies and the business interests of the West who want access to Asia's cheap labor and vast markets to echo the defeated arguments. In 1993, China led a coalition of nations, including Indonesia, Vietnam, Burma, Syria, and Iran that posed concepts of national sovereignty and state-supported development against democracy and human rights, as stated in the "Bangkok Declaration," which became the basis for their postures in the U.N. conference on human rights in Vienna. The domestic forum for this took place when the United States authorities approved "most-favored nation" status for China, in spite of human rights abuses.

The triumph of these developments in the long run is unlikely, unless the fundamental conception of human rights itself begins to collapse. The immediacy of political or economic gain may be decisive in many matters of indeterminate policy, but the deeper theological and ethical influences shape determinate matters of polity, and over time polity guides, leavens, and sets boundaries for policy. The more profound threat to the idea of human rights

as a determinate of polity, thus, is an attack from both its detractors and, unwittingly, from many of its defenders.

A number of contemporary philosophers, social theorists, and religious thinkers of note have begun to doubt that there are such things as human rights, or have attempted to defend them in such terms as to make them impossible to sustain. In perhaps the most famous absolutist denial of the validity of human rights, one of the premier philosophers of our day, Alasdair MacIntyre, wrote that the concept has no meaning at all:

> [T]he truth is plain: there are no such rights, and belief in them is one with belief in witches and unicorns. .. The best reason for asserting so bluntly that there are no such rights is [the same] . . . reason for asserting that there are no witches . . . . [E]very attempt to give good reasons for believing that there *are* such rights has failed. . . . Natural or human rights . . . are fictions.

Although MacIntyre has been discerningly criticized, he is not alone. Leo Strauss, the widely regarded political philosopher who taught at Chicago for many years, has convinced a generation of young minds to become "neo-conservative" on the grounds that the classical ethical notion of natural rights *(physis)* and the proper exercise of virtue especially of "prudence" *(phronesis)* are subverted by this modern ideology of "rights."

On the other side of the ideological spectrum, a major attempt to defend human rights from a "liberal" point of view has been advanced by Rhoda E. Howard and Jack Donnelly. They use sociological and anthropological theory to argue that human rights involve the affirmation of the autonomy and equality of every individual, in contrast to all the tribalisms, feudalisms, socialisms, communisms, and communitarianisms, old and new, that view the individual as a part of a whole. They argue that the idea of rights "is rooted in structural changes that began to emerge in late medieval and early modern Europe, gained particular force in the eighteenth and nineteenth centuries, and today are increasingly the norm throughout the world. The creation of the private individual separate from society is closely linked to the rise of a new, more complex division of labor, the resulting changes in class structure. . . and [thus] a new vision of the individual's relationship to God, society and the state."

Leaving aside historical questions as to whether Abraham, Moses, Sara, Ruth, Jeremiah, Amos, Jesus, and Paul, or for that

matter, Cleopatra, Socrates, Plato, Aristotle, Confucius, or the Buddha were in any serious sense individuals, we do not view human rights as an imaginative literary or political fiction on the order of unicorns. Instead, we view ethical norms such as human rights as the cultural by-products of socio-evolutionary processes. Thus, human rights (and the persons and groups to which they apply) are seen to be an historical artifact, pertinent only insofar as social conditions stand at a particular stage of development, and subject to disappearance if those conditions do not obtain or eventually pass away. These philosophical and sociological views would be a great comfort to those in closed societies who use torture as a policy of governance or allow slave labor, for they can claim that they are at a particular stage of development. And neither are these scholars alone. Literally hundreds of social commentators and clergy share this understanding of morality, even if they read the "signs of the times" of societal evolution differently.

What is missing in these philosophical and sociological views is an account of why such matters as human rights, which cannot be derived from the empirical analysis of the world, prudentially or socio-historically, are plausible or why people should be committed to them, since it is empirically obvious that human rights are violated often and not everyone believes in them. Two things are required for a full analysis: (1) a social hermeneutical theory of how such things come into consciousness—a matter that shall take us into questions of religion and social theory; and (2) a way of evaluating which kinds of normative, but non-empirical, matters like human rights might be valid—a matter that requires theology.

This is not to suggest that we can abandon all philosophy and social theory. Some forms of them can be extremely useful when they are stabilized or undergirded by a theological perspective—a perspective that they can help analyze, but which they can neither generate nor surpass. An historically and cross-culturally comparative view of these questions suggests that ideas of human dignity, human rights, and the great liberties of speech and association derive from certain kinds of religious views, indeed, a distinct set of religious views developed in dialogue with key strands of philosophy and particular theories of social life that are different from, and in fact contended against, positions analogous to the ones we have just noted. In fact, it is quite likely that human rights are based on nothing less than decisive theological

convictions, distinct from but incorporating and utilizing some of the best insights of philosophy and social theory.

The challenges to human rights today, thus, are more subtle than the threats of Nazism and of Communism, for what we face is not likely to be overcome so quickly as these rose and fell—in a mere century or so. The three great challenges for human rights in the next century are these: (1) the decay of philosophy, and the consequent suspicion of any onto-theological account of how things are; (2) the attempt to establish normative principles for civil society on the basis of social description alone—the sadly unfulfilled promise of the social sciences; and (3) the power of resurgent, ancient religions, particularly Islam and Hinduism, which do have a normative metaphysical-moral vision and which have shown their capacity to organize complex and vast civilizations over long periods of time.

In their present forms, it is doubtful that any one of these three can sustain the idea of human rights in the long run—although it may turn out that Islam and Hinduism, or at least key strands of them, like key strands of Christianity critically refined by theology, will come closer than philosophy and sociology insofar as these try to remain detached from religion and theology. To be sure, all of these are potential companions of the kind of ethic that could sustain human rights, if and when they develop a "public theology" in the sense that they seek to discern, under God, the moral and spiritual architecture whereby just and humane civilizations can be constructed. But it is also the case that if any one of them should become the dominant view without substantial reform, human rights are likely to be subordinated or lost.

As this volume and its sequel testify, the place of religion in human rights discussions is an area of considerable debate. John Witte has rightly argued that the study of this interaction has been underway for a long time, and that the echoes of the older debates continue to shape us in many ways. But a new interest has erupted since World War II, and however much it presumes the older discussions, it rarely explicitly refers to them. Instead, the discussion has focused domestically on "the removal of discrimination based on sex, race, and culture, . . . the enhancement of freedoms of speech, press, and association, . . . [and] the safeguarding of criminal and cultural rights." Similarly, the international debate has centered on the "democratic/socialist" polarity, with each attempting to show that it can best provide for "the eradication of sexual, cultural, and ethnic discrimination"

and economic injustice. And, throughout this recent period, the place of religion in human rights has been relatively muted, except that religion became one item on the list of socio-cultural factors to be protected, and the hegemony of any one religion became something to be feared.

The remarkable resurgence of the question of religion in relation to human rights over the past few years, however, has many causes. Perhaps the most profound cause is that societies and souls cannot flourish without a deep substratum of awareness about the moral basis of life, a substratum that generally does not occur without a religious orientation. This is not to say that all religious orientations are good or equal or supportive of human rights. They are not; some religions are quite destructive of all that human rights stands for, and the very intensity and potency of religion makes the destructiveness all the more vicious. It therefore makes a good deal of difference what sort of religion is at hand. But the key point here is that such intensity and potency has at times been supportive and even generative of human rights, and that the commitment to a moral substratum which can guide the common life seems to appear most strongly in those societies informed by certain kinds of religious influence, and to be least vigorous in those societies shaped by other religious traditions or by anti-religion. We have a situation, thus, in which the freedom and vitality of religion at one level appears to depend on human rights, but in which the intensity and viability of human rights in society at another level seems to depend on the extent of certain kinds of religious influence. In the vast literature on religion and human rights, this second aspect is the least discussed and often the most superficially treated.

Although there is considerable evidence that human rights are deeply and fundamentally dependent on religion and specifically on certain kinds of theological issues, it is equally clear that not all are convinced of this rather substantive point. Indeed, it is probable that for human rights to be recognized and sustained in the common life, two things are necessary: a theological understanding of normative reality, and a set of concrete institutional channels to actualize these normative visions in society and make them accessible in a civilization.

The Central Issue of Religion and Human Rights

The main contentions of this chapter are (1) that the very idea of human rights is rooted in a theological ethic; and (2) that this

ethic needs to be defended from contemporary challenges—philosophical, sociological, and religious—in order that, as an ethical norm, human rights may more fully be actualized in societies, and so that philosophy, social theory, and religion supportive of human rights may flourish among all peoples. The challenges to human rights are based upon doubts about the nature of theology as well as the confusion between confessionalism and theology. Religion is often treated as a strictly personal, cultural, or historical experience, and theology is understood to be its formal, dogmatic articulation. Thus, to root human rights in religion or theology is seen as a form of personal, cultural, or historical imperialism. Further, since we have come to wider awareness of the variety of religions in the world, it is hard for some to imagine that not all the religions contribute equally to moral matters. Although the world religions have been around for centuries, they did not seem to many to be present as living options or necessarily related to human rights.

Yet historically, the evidence is rather clear, as Brian Tierney has already suggested. The deep roots of human rights ideals are rooted nowhere else than in the biblical tradition, for it is here that we find the decisive unveiling of a perspective in which moral first principles demanding the respect for the neighbor are made known to humanity by a reality that is universal and absolute. This reality, which the Western traditions call "God," is neither a figment of human imagination, a projection of our personal needs or tribal consciousness, nor a product of human creativity. Nor is this God morally neutral. This is an ethical God, the source and norm of a kind of justice and righteousness and contends against what we often find as we look around the world. Richard Deats puts it this way:

> The universal implications of this faith in the righteous God, creator of the earth and all living things. . . [permeated] the life of Israel, expanding their faith to widened horizons of inclusiveness and compassion. "Am I my brother's keeper?" and "Who is my neighbor?" are questions that never ceased to stir the conscience of the people of God. . . . [T]he universality of this faith. . . is to be a "light for all the peoples."

This heritage was applied to all the peoples of the world in the prophetic traditions, when the prophets protested the exploitation of the poor and weak, and demanded that the various nations, especially those who claimed to be most loyal to this God, must

submit to a moral law not of their own making. Some things simply ought not be done by one human to another, even if they are approved or commanded by an impious political authority.

In this context, Christianity arose and radicalized the prophetic point of view, carried it into the Graeco-Roman world, and linked it to philosophical and jurisprudential theories that, on quite other grounds, also had begun to articulate a notion of a universal normative moral order. This interaction of faith and philosophy created theology and ethics as basic modes of discourse to guide thought and action on the most universalistic bases possible.

These developments remained a minority tradition for centuries, and were often suppressed by pagan tendencies, power interests, and forms of myth and magic that could not be said to be universalistic, moral, faithful, or philosophically sound. But periodically this tradition was retrieved and made central to attempts to reform life; and to establish it on a more universalistic, more humane, and more godly foundation. This we can see in the revolutionary transformations of law and society so central to the history of the West, in the theological theories of "conciliarism" that anticipated and approximated constitutional democracy, and especially in parts of the Reformation that influenced the modern formation of human rights.

However, it was periodically the case that precisely this tradition was distorted by both the ideological use of religion at the hands of political power to legitimate its interests, and the betrayal of the rational and ethical character of theology by religious leaders who made Christianity into a series of arbitrary dogmas to be accepted on blind faith, without intellectual justification, moral rigor, or a sense of what it meant to be "a light for all peoples." When the wars of religion of early modern Europe combined these perversions, the heritage was discredited in the eyes of many. All sorts of post-Christian views of human moral *a priori*, self-evident truths and natural lights were developed to attempt to guide and constrain political authority without religion, and to develop a cosmopolitan ethic that would allow the various obscurantist religions to hold their own dogmas—albeit only as private preferences. Theology, in a public sense, was destroyed in favor of apolitical or pietistic fideism, on one side, and an ontologically free-floating rationality, on the other. The destruction was called Enlightenment. However, the Enlightenment could not carry the full load of what it attempted, and its rational fruits

became instruments of oppression, even as it struggled to establish and maintain a sense of universal moral order. Its godless foundations could not bear the weight of all that the Enlightenment philosophers confidently placed upon them. The Enlightenment's initial success depended upon the deeper, but hidden, foundations which had been laid by theology. Apart from them, philosophy began to deconstruct—into romanticism, historicism, existentialism, and now postmodernism.

Our argument is not only that we need to get and keep our history straight, although that would be a very good idea. Our argument is also that it is quite possible for an idea that is generated out of one context to be found valid in another, and to become contextualized in forms of thought and life in ways that enhance possibilities within those adopted forms of thought and life that were only latently central to the new host. This, of course, produces "revisionist" history in the secondary tradition, as happened to Greek philosophy and Roman law when they were wedded to biblical insights to form a theology which surpassed these original sources. Our argument is, in brief, that today human rights can best be seen as a part of the process of the recognition of the validity of decisive ethical concepts that, while offered and made actual by a particular tradition, are recognizably valid for all people and are essentially true for the world. Human rights are a modern way of speaking about cross-cultural ethical concepts that actualize certain valid theological presuppositions and in turn legitimates constraints on what humans or states can do to each other, where theology is understood to be the critically examined and systematically stated interpretation of what humanity is—sinful creatures not driven entirely by nature and nurture, that know we live under a God who establishes moral laws and ends and contexts of life we cannot attain alone.

Theology, in this view, is not merely the rationalized form of a social or cultural view legitimated by a privileged religion. It is also a necessary partner of philosophy and the social sciences, and a critic of religions, in clarifying, and establishing universal and valid ethical norms for an emerging global civilization. Theology tells us whether this or that religion, our own or someone else's, is valid or whether it ought to be challenged on the grounds of its truth or its justice. This hypothesis then bears within it an ironic implication: it suggests the likelihood of religious, philosophical, and social conflict, for not all religions are equally

capable of developing or sustaining a theology that can generate a universalistic ethic of jurisprudential importance. Indeed, in its strongest form, this argument suggests that it is doubtful whether human rights can be sustained without a theology that has certain definable characteristics, which we will attempt to indicate.

Yet, as the threats of the anti-modernists on the right and the hyper-modernists on the left fade, increasingly frequent attacks are made upon the theological genealogy of human rights and the very possibility of anything being universal, especially anything with normative content. A new surge of pragmatic anti-Enlightenment and anti-theological philosophy has attempted to deconstruct all aspects of culture, including language, with the reductive techniques of the social sciences, and to view the great world religions as evidence against the possibility of developing and sustaining a universalistic theological ethic. These deconstructive arguments suggest that both theology and modernity are to be faulted for trying to supply a basis for human rights, for they rest on strictly untenable universalistic claims.

In what follows, we first consider aspects of these deconstructive philosophical arguments, and then we use a preliminary discussion of postmodern social theory as a segue into a consideration of Islam and Hinduism as interlocutors in the rights dialogue. We argue (1) that the postmodern case against universalistic theological principles is inconsistent and not convincing; (2) that certain postmodern social theories already realize this; and (3) that aspects of classical Hinduism and Islam can be enlisted as allies in the struggle for the global recognition of human rights, even if aspects of them, along with aspects of historical Christianity, also are judged to contain features which could potentially subvert human rights.

Postmodern Philosophy and Human Rights

Philosophers since the Enlightenment have frequently argued that only human reasoning *carried out as philosophy* adequately grounds human rights, for religions are usually enemies of rights, unless they are relegated to optional personal preference. Theology, in this view, is no less passe, for it is but the rationalization of fideist belief. The serious work of establishing ethical and political values is accomplished by philosophy. This view, it is widely acknowledged, is in considerable difficulty today, and it is doubted whether human reasoning carried out as philosophy can justify anything, let alone human rights.

Reason no longer speaks with the booming confidence of Archimedes, nor even in the conversational and receptive tones of Hermes. Both the "clear and distinct" arguments of epistemology and subtler shades of hermeneutics are thought to be maniacal ravings of the pompous predicament of Enlightenment reason. Modern philosophy here is thought to be a kind of pretentious insanity, as was religion and theology.

Two thinkers represent this "postmodern" turn of mind with special clarity: Jean-Francois Lyotard and Richard Rorty. They believe that a theoretical defense or justification of human rights is neither possible nor desirable. Yet they have both recently given lectures in the Oxford Amnesty Lecture Series, the funds of which are used to support Amnesty International and human rights. The ambiguity in Lyotard's and Rorty's arguments is this: they are opposed to all universalistic theory—religious, theological, or epistemological—that attempts to establish first principles. And yet they want a world where the "dignity" of each self, and of each unique locale, story, biography, and group identity is honored.

The substantiality of this view is not at all clear, for human rights are by definition both universalistic, practical, and highly theoretical. Rorty has argued that it is possible to "de-universalize" and "de-theorize" both democracy and human rights, and yet to maintain them as a good way to live. As ways of life, democracy and human rights are prior to philosophy. Enlightenment philosophy's most profound self-deception, he argues, was to believe that its theory of rights was foundational and prior to the form of democratic life. Rorty argues, to the contrary, that Enlightenment justifications were always justifications of *this* way of life; and *this* way of life can be "justified," or made sense of, in a number of ways. But, better yet, it needs no justification. In lieu of a theoretical defense of rights and democracy, one has to say merely that these forms of life work well; they have helped us to stop killing one another. That pragmatic justification, if one can call it that, involves certain understandings about what is desirable, but these understandings should be recognized as strictly contingent products of our historical experience.

Rorty is surely correct that the Enlightenment justifications were not prior to democracy and human rights, for in fact it was key theological and ecclesial traditions that established them for at least parts of the human community, long before the Enlightenment. Furthermore, it can easily be argued that democracy

and human rights were based upon universalistic theories of right and wrong that were, in fact, resisted by particular local traditions, stories, biographies, and group identities that would have lost the arbitrary power they held over people if rights and democracy were acknowledged. Also, Rorty's theory presupposes a touching vision of a naturally harmonious state of affairs for all life that is not touched by the sin of grand theory. This wonderful polytheistic paradise, with no trees of knowledge since it is "beyond good and evil," is as universalistic and religious a theory as any he rejects, although it is not theological and thus has no grounding beyond arbitrary preference. Finally, he cannot provide a reason why we would stop killing one another, especially if it is to the great advantage of some that the killing continue.

Lyotard also believes, echoing aspects of Heidegger and Neitzsche, that the fundamental error in Western philosophy is that grand narratives storm through history by swallowing up and silencing alternatives and otherness. Grand narratives reign by "terror," even though they are guided by a profound humanism. This humanism is supported by the grand narratives of Marxism and liberalism, which measure all things by their ability to produce results for humanity. Marxism promises a catastrophic liberation of humanity; liberalism promises humanity's gradual unfolding and flowering. Yet both liberalism and Marxism agree that human beings stand at the center of history, and that history told rightly tells the story of the ineluctable emancipation of humans from tyranny and need.

Lyotard believes, however, that the ideas of real subjects, general humanity, or the meaning of life or history are pretenses that cannot survive contemporary experience. With Rorty, Lyotard argues that humans are much more "put together" than such an anthropocentric theory of history would indicate. Modern views constitute themselves by denying the constructed character of the self, and thus they invent a mythology of a completely new, unfettered beginning: that it is in this way possible to "set the clock back to zero," to return to or take one's clues for living from a "state of nature." Postmodernity believes such confident new beginnings merely deny the past and are thus doomed to repeat it. Lyotard's postmodern way forward is much more like psychoanalysis: one can see the pros and cons of one's parents and past but cannot imagine a personal story without them. History is, or rather histories are, like that, too. People are so "put together"

that even their new starts are *in medias res;* they are much more ambiguous, gritty, and semi-formal than modernity's Self. Universalistic narratives, public philosophy, or theology conceal and overwrite this "put togetherness."

The idea that some universally conferred dignity stands behind the Enlightenment doctrine of human rights is, in this interpretation, the product of a false consciousness (in a Freudian, psychotherapeutic sense). The recurrence of grand narratives, or bold declarations like claims of natural rights, are a sign that cultural psychotherapy has gone badly awry—that the therapeutic process has mistaken the content of its conversation for an authoritative and normative remembering of "history." Spinning grand narratives, like theoretical defenses of universal human rights, entail a "primal repression" *(Urverdrangung)*: all such attempts are tied to a philosophy of consciousness, which is doomed to repeat the horrors of the past. In Western history, the chief example is the Jews:

> What is most real about the Jews is that Europe, in any case, does not know what to do with them: Christians demand their conversion; monarchs expel them; republics assimilate them; Nazis exterminate them.

The grand narratives of the Enlightenment, with their promise of equality, did nothing in Lyotard's view to protect the Jews from extermination. Their most benevolent face was to require the abandonment of all of the distinctive features of Judaism. Lyotard wants human rights to be much less than a theoretically comprehensive articulation of the rights and duties of humanity, and so to provide much more of a shield for simply being human. At the core, human rights are about the right to talk with others, and to tell one's own stories. One's stories ensure that one is always "other," not reduced to some alien scheme:

> [T]he strangeness of the other seems to escape any totalization . . . It is precisely when we think we have reduced the abject or the sacred to transparent meanings that it becomes most opaque. . . . The discontent from which contemporary societies are suffering, the postmodern affliction, is the foreclosure of the Other. It is the reverse of the triumphant identification with the Other which effects modern republics at their birth.

Lyotard is surely correct that the Enlightenment conception of the Self, as autonomous, complete, whole, and unique, is unconvincing. But his view of the socially and narratologically

constituted person is equally unconvincing, and it is doubtful that his view can provide the shield from "terror" that he wants. Lyotard recognizes one of the emphases of the biblical and theological tradition, namely, that humans are creatures made from the dust, to which they return after a brief life. The biblical and theological tradition, however, also affirms that humans are created in the image of God. The self does not have an automatic dignity; it has a conferred dignity. The weak, the fragile, the foolish, the faulty also are to be treated with dignity. The biblical view is paradoxical; these creatures from the dust, made in the image of God, may not be violated—in prophetic voice, their heads may not be crushed—at least not without incurring God's wrath. Lyotard cannot provide a convincing reason why we may not manipulate one another's stories and crush each other's heads, even though he desires that we do not.

Just as Rorty falls into an unwitting romantic and presumptively harmonious polytheism, Lyotard falls into a soulless vacuity of chatter. Rorty needs God; Lyotard needs the image of God. Their arguments are insufficient, even though they have helped us see more clearly the insufficiency of key philosophical arguments of the Enlightenment. Nonetheless, if it comes to it, the world would probably be wise to choose the Enlightenment views over their efforts, for in the notions of a universal moral law and a self with inherent dignity, there is a closer approximation to what these two philosophers want to protect than in what they themselves proffer as alternatives.

Several other lines of argument could be marshalled against this vision of Rorty and Lyotard. First, plurality does not take care of itself; in a structural and historical form, plurality without a larger sense of unity is tribalism. Various forms of ethnic exclusiveness and pluralism constitute themselves in terms of "the other" by constant hostility, and it is romantic and historically blind to argue otherwise. Second, the so-called totalistic impulses of the Enlightenment can be criticized, along the lines laid out by Rorty and Lyotard, without denying the importance of inclusivistic narratives. In fact, the lack or denial of comprehensive narratives is historically the source of violence. The problem is that the Enlightenment was not inclusive enough. Its narrative was petty, not grand, for it lacked depth. The Enlightenment conception has only selves, not souls; it has humanism, but neither God nor creation. Rorty and Lyotard are right, then, that the Enlightenment

does not deliver on its promise to secure some kinds of particularity and plurality, and thus these are subject to deconstruction, because they have no ground for being honored. Yet that has as much to do with the Enlightenment's denial of the theological foundations of its own presumptions as anything else. The doctrine of the trinity, for example, enables the articulation of ultimate reality, marked by a non-reductive inclusivity, with principles and freedom, otherness and identity. Third, it is possible to see vestiges of the "Enlightenment" all through Rorty's and Lyotard's writings, especially when they are read from a Christian theological point of view. The premature dismissal of theology as a voice in *public* discussion represents the Enlightenment in its most dubious philosophical aspect, and they accept the dismissal at face value. Fourth, it is not at all clear howone can have a non-theoretical practice or form of life, without falling prey to self-referential Inconsistencies. It is a noble impulse that should be nurtured, one that has people pause and ask, "Is this practice just, and therefore theoretically justifiable?" Human rights apply to more than one form of practice, because they are highly theoretical. Yet, beyond these issues, there is reason for a deeper critique of Rorty and Lyotard from the perspective we are advancing here.

For all their insights, Rorty and Lyotard undermine the chief source of human rights and obscure the character of the contemporary ethos in which human rights will be advanced or retarded. In short, theology is an indirect, and often a direct, target of their critiques, as it is for enlightened liberals. Moreover, their focus upon the smaller fragments of life leads them to ignore a manifest feature of the ethos of our time, namely that the world's increasingly unified economic, political, ideational, and legal global ethos can support a non-violent plurality. Rorty and Lyotard spool together these features of bad theology and a misunderstood ethos because they believe that the Enlightenment best spoke for its own presuppositions and correctly analyzed the nature and character of religion. But, since they have challenged the Enlightenment on a dozen points, it is not clear why they remain dependent on it for this one. Rorty and Lyotard simply assume that theology is inherently heteronomous and that an irreducible plurality is better than the stifling singularity which theology ostensibly desires. The social hermeneutic of Rorty and Lyotard blinds them to the emerging global ethos, or to view it as some demonic Leviathan, and no more.

The fate of human rights as a sustainable cluster of doctrines is likely to require the apologetical refutation of these sorts of claims. For, on the one hand, if theology cannot enter into first-order dialogue about the nature of humanity, without being destructive or heteronomous, it is hard to see how religious human rights can mean anything. On the other hand, if they show that classical and enlightenment philosophy and all of theology is inherently dehumanizing, it is also had to see where substantive accounts of "humanity" will come from, since nearly all of the current human rights proclamations depended, directly or indirectly upon the normative anthropological-assumptions of biblically influenced philosophical theology.

Rorty's denial of "metanarratives" turns out to be a particular metanarrative that systematically denies the reality of the world. In fact, both Rorty and Lyotard presume a metaphysical and epistemological but ethically normless polytheism at the level of experience. Their social hermeneutic has decided *a priori* that it will see nothing other than fragments which are threatened by comprehensive unities. That means that the bases for rights which might be used to stave off intrusions on individuality are undermined. To be sure, in the emerging global ethos, there is an intensive plurality that which cannot be denied and that which can often be celebrated, but there is also a quite real unity. There is one eco-system with multiple climates, one global economy with highly differentiated markets, one emerging cosmopolitan global civilization with many cultures and subcultures, and one need to communicate with many languages. Human rights as a normative concept adds that there is one humanity with a rich variety of individual lives, traditions, communities, and religions that ought not be violated. This is a theological hermeneutic that includes unity and difference. Rorty and Lyotard undermine that dialectic by focussing upon difference; this is quite directly related to their denial of theology as a form of public discourse, since theology joins unity to difference and articulates the real differences found in and under ultimate unity.

From Postmodernism to Social Theory and the Religions

The course travelled by these postmodern philosophers is odd. Rorty and Lyotard tacitly accept several key presumptions of the Enlightenment, turn them on the greatest achievements of modern humanistic thought, and thus destroy the foundations of

the very values that they want to affirm. Further, they finally have to rest their case on a socio-historical reading of how things work in the common life and on *a priori* convictions about what is valuable. Yet they can defend neither, something they disavow at the outset, in any event.

Rorty and Lyotard, however, are not the only contemporary philosophers to address human rights. Terry Nardin and David Maple of the Thikon Institute, for example, are editing a major volume on *The Constitution of International Society*, in which both classical (conservative) and Enlightenment (liberal) theories of law, in dialogue with certain theological positions, are being retrieved and revised to guide the common life in ways that support and sustain human rights. Similarly, certain self-consciously "conservative" and "liberal" moral philosophers, and some self-consciously liberal and conservative "Christian philosophers," are making very similar arguments against both the reductionism of the Enlightenment and the moral emptiness of many postmodern alternatives.

The Enlightenment thinkers would surely have found it odd that some of the most serious arguments against human rights come not from religion or theology but from philosophy. That may not be enough, were we able to discuss these matters with the Enlightenment thinkers, to turn them to a reconsideration of religion and theology. For a number of social theorists in our day, however, it has been enough, even if the turn these theorists make to religion is not always fully adequate. The work of Jurgen Habermas, for example, represents an attempt to go beyond the narrowness of both Enlightenment philosophy and sociology by commingling their insights in a program of critical theory. He joins Rorty and Lyotard by rejecting a philosophy of consciousness, monological justifications of the social contract, and the foundationalism of Enlightenment philosophy; he also joins them by turning to language and communication theory. Yet here is precisely where Habermas turns away from Rorty and Lyotard, for he attempts to extract a normative justification for rights out of the very nature of communication. At the core, Habermas argues that communication itself is committed to non-coercive modes of interaction. Communication theory is the venue through which Habermas engages the functionalist focus on the "life world" and the themes of rationalization and disenchantment articulated by Max Weber. Habermas remains tied to unnecessarily reductive

analyses of religion, and his account of a communication requires the abandonment of theology and teleology in rights discourse. But he comes closer than the postmodernists of our day to providing a sustainable, normative framework for human rights.

Scholars in the sociological tradition of Weber, Emile Durkheim and Talcott Parsons, such as Robert Bellah, are also increasingly, though cautiously, engaging in dialogue with religion. This move is not without controversy. Some writers in this tradition challenge the use of the social sciences as a companion to religion and theology. Others, such as Peter Berger, question whether sociology alone can provide any guidance about human rights as normative claims. To the contrary, other sociologists argue that social sciences are the only disciplines that can provide normative guidance to post-religious civil society. It is not clear whether contemporary sociology, any more than contemporary philosophy, can offer normative guidance about human rights, though both disciplines point to the necessity of dealing with religions as decisive factors in human rights discourse.

It may be that the more urgent approach to human rights is to raise the question of the world religions directly. To do so, however, we need a method that both focuses directly on religious realities and joins the study of religion to philosophy and social theory. Such a method is found in theological ethics, or what some traditions call social theology, philosophical theology or natural theology. Theological ethics, along with certain forms of philosophy of religion and jurisprudence which are alert to theological issues, goes to the deepest normative perspective in which human rights can be talked about without sacrificing concrete socio-historical institutions.

Surely, human rights would be on a more secure footing if we could place them on a foundation that has both a sustainable normativity and a concrete, institutional footing. The theological ethical considerations of the world religions bring these concerns together, because all of the axial religions express metaphysical-moral visions that entail normativity, and their civilizational expansiveness verifies their sustainability. The major religions also interact with the chief and indispensable social structures—familial, political, economic, and cultural. Indeed, in many classic societies, religion is identified with one or more of these social structures, so that it is not strange to speak of a tribal, clan, or caste religion, an imperial, political or civic religion, a religion

focused around the hunt, the harvest, or the expected "cargo, or a religion of a cultural-linguistic grouping. In some societies, however, where religion is focused upon a culture-transcending, ethical reality, it becomes distinguished from these so that it is not to be identified with any one of them. There, quite often, we find the formation of voluntary associations—centers of bonding and meaning that are intentionally not tied to any of these, even if these associations continue to influence any or all of them. When this begins to happen, we find also the emergence of other independent institutions of society—law, science, medicine, and business—which also segregate particular activities into distinctive institutions and shape the fabric of the whole society.

Historically, it has been in certain kinds of traditions—those which, on ecclesiological grounds, have spawned voluntary associations, and thereby institutional pluralism—nearly always populated by minorities at the outset, that we find the most promising institutional focus for the creedal recognition, affirmation, and nurture of human rights. Such associations are primarily called into existence by proselyting, ethical religions, where these transcend family, governments, special economic or cultural interests and try to influence them to approximate justice.

Voluntary associations are also created in secular forms, once the space is established and rationalized by religious groups, and these associations can transmit the ethical ideas in routine institutions, quite often in forms which are not recognized as religious. Anthony Giddens' thesis may be promising here with some modification, for he argues that globalization is the "radicalization of modernity," the realization of its consequences. Giddens' "discontinuist" account, however, does not sufficiently engage the question of the religious and theological antecedents of modernity. It is likely that the global radicalization of modernity is the most recent actuation of the deep fount of modernity, that is, of what Max Weber saw in his treatment of "the city," and more fully in his study of the spirit of capitalism—the "secular" rationalizations of life prompted by religious transformations. But Giddens' thesis holds that we are now experiencing the consequences of that ethic in ways that Weber did not and could not envision. Newly emerging global patterns, reflected in international law, media, and markets, but largely evoked and facilitated by new forms of the multinational corporation, concretely shape the world in which we live and in which human rights are

recognized or violated. We should investigate what drives these new patterns, because they harbor the ability to create inclusive institutions and to nurture normative ideas about what is true and just, at least latently.

This raises the question: do global institutions, since they are universal in scope, bear within them an ethic which can be allied to that of human rights? If so, with theological ethical guidance, they may support human rights more securely than either philosophy or sociology alone, that is, of either an uninstitutional normativity or an institutional anomie. Answering that question requires a consideration of the chief fount of voluntary associations, the world religions. It requires a *theological ethical* consideration of them, a consideration that seeks to articulate which religious claims are true, and how one could know their truth. In sum, important as philosophy and sociology are, both finally depend upon religion—the investigation of which finally requires theological analysis, if a universalistic ethic such as human rights is to be sustained by religion.

For our purposes, only some religions are interesting—those that have demonstrated a capacity to shape large scale civilizations. Only these religions can reach toward human rights in the relevant respects; only these make claims to universality. The world's major civilizational religions are, to use postmodernism's contemptuous phrase, totalizing theories. God's covenant with Israel commissions it to be a prophet to the nations. The Christian gospel is to be taken into all the world. The Qur'an is the Arabic words of Allah. The sounds of the Sanskrit words preexist the cosmos itself. These traditions know something about what Christians also say, "In the beginning was the word." Indeed, in what Karl Jaspers called the religions of the axial age *(Achsenzeit)*, several traditions discovered that the cosmos could be comprehended as a single whole thousands of years before such an idea could begin to make empirical sense, as it does now in what social theorists call globalization, internationalization, or the world system.

Three distinct elements are present in the ethics of each of these religions; these need to be sorted if we are to find out where and how we are similar, and where and how we are different in regard to human rights.

First, the world religions are allies in identifying a fundamental need to transform reality as we now find it, and together they form a cluster of formal deontological claims that categorically address

all humans and all human societies. Every religion has something like universal moral laws that condemn murder, rape, lying, stealing, dishonoring religion and proper authority, and commending truth-telling, promise-keeping, and upright living. In broad terms, members of the religions can agree with each other, and often with philosophies that also seek to know the "right order" of things, and can cooperate on these bases about many matters concerning human rights.

Second, however, all the great religious traditions have a way of interpreting and guiding the social context of life. There is considerable tension on this point, although it does not perhaps involve ultimate differences. This second area of ethics has to do with the ways in which commonly held first principles and final aims become embedded in the necessary contexts of life. Frequently, they become attached to a socially and historically conditioned ideal, which determines what the most fitting context of life ought to be, and what kinds of concrete social arrangements best allow the right order of things to be actuated.

If we look briefly at Islam and Hinduism, we can see important elements of this dimension of religious ethics that bear upon human rights. As we already noted, every society has to have a way of dealing with familial, political, economic, and cultural matters; if the societies are complex, they must also have independent institutions for law, science, medicine, and business. Religious institutions and loyalties have been, and presumably always will be, closely allied with these, but how that connection is made from the standpoint of the religion will be decisive for the actual functioning of the first principles of right and wrong, including the ways in which human rights operate.

Islam was led by Mohammed, of blessed memory, who was not only professionally given to commerce, but also a political-military leader who, by being the mediator of the Qur'an and the first judge in legal cases, established a direct and immediate connection between the faith and political and legal rule. It would, indeed, be very strange if religious organizations in that tradition did not draw a close connection between political, military, and legal principles, especially as they dealt with property, trade, and agreements among the heads of households, clans, tribes, and nations. Over the centuries, that has been quite characteristic, from the rise of the Caliphate, to the Iranian Revolution, to the new militancy nearly every Islamic country is now facing. Religion

encouraged political and military expansion and thereby the establishment of the Shari'a and of trade. When political and military expansion went well, religion flourished, marked by wider establishment of the sacred law and commercial success. When any one these declined, the others fell into frustration or disrepair.

To be sure, there have been grand moments in the history of Islam, when issues of cultural and philosophical genius, medicine, science, commercial fairness, and generosity to the poor have surpassed most other civilizations, and these "arenas of life" remain highly regarded by many devotees of the tradition. And, of course, Islam, has quite distinctive teachings about family life, presumably born out of the political, military, and legal history of the faith, and quite supportive of an ethic which nourished their common life. In general it might be said that the "brotherhood of Islam" basically supports the "nation of Islam," and that both bring political power, law, and religion into intimate proximity.

In contrast, Hinduism is organized by a priestly caste that is viewed as superior to the military-political-legal custodians of public order, and they, in turn, are superior to those given to commerce and production. The fact that priestly domination triumphed over political and military rule in India is of basic significance; the priests have first-order contact with the first principles of morality, in a way that no other vocational group does. A casted hierarchy, determined by birth, sets the extended familial patterns at the core of religious association in a way that has no real analogy in Islam or Christianity. Thus, dynastic institutions, guided by a marriage-conscious and highly educated literate dynasty tends to dominate life in those areas where Hinduism is predominant.

Both traditions have elements of transcendence, of the dignity of the human soul, and of the necessity of legal protections for life. But neither has developed a general theory of human rights. However, these deeply embedded social orders are not beyond change, any more than the imperial and feudal structures of medieval Christianity were. Further, once the concept of human rights is presented to these traditions, and once the possibilities of a pluralistic and open civil society becomes accessible to them, and people within these faiths begin to adopt patterns of organization that are neither totally given to political-legal militancy or to familiar-dynastic hierarchy, elements in their own traditions can be found that support the notion of human rights. Human rights can be used to catalyze growth in the latent depths

of these traditions which are already have profound universalistic dimensions.

In brief, religious traditions can alter and reform themselves in the light of new ideas and circumstances. Gandhi is the great symbol of what that kind of transformation might look like in Hinduism, and present debates in Islam suggest that some changes in a comparable direction are available to Islam. Great traditions change only uneasily, and some traditions get lost or simply become minority themes in other grand traditions—as the history of Hinduism poignantly suggests, but as is also evident in the heterodox sects of Islam. Even more important is how the religions react to cosmopolitan, inter-cultural, and inter-religious contact—a crisis that is currently confronting Islam, Hinduism, and Christianity. To be sure, the direction of change is not fully predictable, and it is ambiguous whether these will bring about recognition of human rights. Under the impact of the emerging formation of a global civilization, various principles and trends that are revealed to, or discovered in, one tradition refuse to remain within a single societal, cultural, political, economic, or familial framework. They influence and are selectively and voluntarily adopted by other traditions, including other religious traditions.

Third, the world religions offer constructive, forward-looking visions or teleologies, that is, guidance about how to discern good from evil consequences of our actions by considering them in reference to ultimate aims. This third, teleological dimension of ethical discourse is rather decisive in this process of selective adoption. As the traditions now stand, they have deeply formed, rich contexts, and these make the deontological and teleological conceptions concretely available to people. While all the religions deconstruct the world with the absolute specter of religious criticism and the call to transformation, they all also reconstruct it through imagination, doctrine, practice, and ritual so as to redeem or sanctify the world realities. They acknowledge the moral and spiritual legitimacy of the basic institutions of life, although the kind and character of the religion, and specifically its affinities to particular kinds of institutions, will shape the context in quite distinctive ways.

All the world religions also know that without a vision the people perish. Here, however, no hasty synthesis is possible: the Kingdom of God is neither Nirvana nor the Paradise of the Qur'an, and liberation in Latin America means something quite different

than the *moksa* and *bhakti*. Thus human rights find possible support in the metaphysical moral visions of the world religions, though these are indigenized in various contexts, sometimes in ways that suppress the deontological insights. But what shall be made of the world (and what shall become of the soul) is not so clear. It may well be the case, as many human rights advocates argue, that a high degree of agreement and clarity exists about the possible cooperation of religious believers on some matters bearing on human rights. Most also agree that contexts should be treated with care, although some appeals to context become contextualist ideologies of identity and pluralism that effectively resist every call to transform society toward greater justice. On the question of teleology, however, there is neither agreement nor clarity. Often the role played by teleology in human rights is ignored, and when it is treated, it usually compromises the deontological character of rights. Undoubtedly this is partly the case because of the conflict between communitarians and universalists. We have been pressed from both sides to adopt either / or positions. However, one also wonders whether some of the failure to treat the issue is not a way of avoiding the difficulty it entails. We are delighted that we can invoke the *dharma*, the *dhamma*, the Mosaic law, the Qur'an, the Holy Spirit, and, in times past, the proletariat against the injustices we perceive in the world. However, that is not enough; for we must also speak about what we and the various constituencies of the world's religions are for. And that moves us into an area where many are not comfortable—an area where one must not only be against the injustices of the world, but also ready to claim that some teleologies see farther and more than others, an area in which apologetics is a chief form of dialogue.

Conclusions in Light of the Emerging Global Ethos

The unwillingness to engage in discussion and debate at this level and to raise critical questions about the most decisive levels of human existence represents a failure of intellectual nerve. It prevents us from finding an approach to this problem of conflicting teleologies, one which will only become more intense with the phenomenon of globalization. What we call "fundamentalism" is one key response to this intellectual vacuum, because it supplies what theologians too often have avoided—a comprehensive assessment of the state of affairs in the world today, including teleology. Fundamentalists may be faulted in many respects, but they cannot be said to lack intellectual courage. They are not

wholly wrong-headed in seeking foundations on which we can stand as we build the civilization which will be the *oikos* of the twenty-first century. Fundamentalists are surely right to seek these foundations in religious traditions. They demand that any who speak with authority be forthright about the ultimate foundations for what they say, and if there are none, they suggest that people pay no attention.

Since the world is increasingly interconnected and interdependent, and is known to be such, in its media, its international organizations, its politics, and its economy, we have before us the possibility of a broader and deeper *telos*, which invites us again to ask, as Augustine asked for his age in the fifth century, about the chief end of life. The answer to the question, What is the meaning of it all? in order to be sustainable in the future, has to be correlated in some way to the civilization which is emerging.

Roland Robertson, the sociologist who has thought about this the most, refers to this process as globalization. Robertson and William Garrett say:

> [T]he world is rapidly coming to be apprehended as "one place," that is a totality wherein discrete selves, nation-states, and even civilizational traditions have their respective niches, each interconnected by complex, reticular relations of belligerence and beneficence, competition and compromise, discordance and detente. Yet, whatever the mode of linkage among the sub-sets, the crucial fact remains that each unit is couched within the frame for the whole so that, willy nilly, action must be referenced against the coordinates of "the world."

In this emerging context, focussing in a normative theological way upon the role played by the world religions in the support or denial of human rights is essential. For world religions tie principles, aims, and contexts together in a way that few philosophies and social theories do. Philosophical theories fail to help us address this ethos because they are often strictly abstract. Sociological theories fail because they are usually normless. But theological ethics succeeds, for it ties a concrete, institutional focus with normative thinking. As Anthony Giddens has pointed out, the whole consideration of the modernity/post-modernity question, and for our purpose the status of human rights, becomes quite different when the focus is upon institutions and not philosophical

epistemology? However, new ground must be broken by considering the relatively neglected role apologetics must play in interreligious dialogue and in discerning the most fitting shape for the world's institutions.

However, we must face another option: perhaps all the world religions will not enter this dialogue. Perhaps some are unlikely to engage in it, or will discourage their members from doing so, because their teleologies do not allow for the possibility that all can be included in the more proximate or even in the final future. All this does privilege certain religions against others—now, as always, only those which are capable of reaching globally should be taken seriously as ways of organizing the greater cosmopolitan life.

All religions and peoples, however, face the fact of modernity—"modernization," as it is usually called by social theorists, with its development of a new world order. The world is increasingly interconnected and interdependent as well as differentiated and pluralistic, and is known to be such, in its media, its international organizations, its politics, its economy, its technology and its awareness of a common ecological destiny.

Awareness of these developments brings with it an anxiousness about the fate of individual cultures, means of expression, and localities. Will they all be destroyed as the world becomes one? Must those committed to the value of individuals and particular communities fight against globalization? Human rights stand awkwardly in the middle of these concerns. On the one hand, they are avowedly universalistic, and, on the other, they aim to recognize and protect the legitimate claims of individuals and those decisive associations by which human life is sustained at concrete levels. But that may not be so awkward; perhaps postmodernism, like romanticism (and its institutional form, nationalism) are the real enemies of individuals and of pluralism of communities. In either their embrace of chaos, or the unique, lies a promise to protect individuals from totalistic destruction, but an even deeper inability to deliver on that promise, since individuals are only instruments of larger purposes or processes in these notions.

Thus, alongside the development of "globalization as a concept," of the "compression of the world and the intensification of consciousness of the world as a whole" also developing is an increasing propensity to tribalization and radical

recommunizations. The "ethnic cleansings" in areas that are nominally Christian, from Bosnia to Burundi, are matched by forms of anti-modern and anti-global militance in parts of Islam and Hinduism. These tragic dramas remind us that it takes well-maintained, civilizationally-held and transmitted ideas, mediated by and routinized in enduring social structures, to create and maintain a humane ethos, in which a pluralistic unity is possible. Human rights, acknowledged in the fabric of civil society, recognized in international covenants and national constitutions, and honored by governments, are a decisive set of ideas and institutions. Human rights are theories that enable, much like the Ten Commandments, the founding of viable covenants and the formation of a community which extends beyond the boundaries of any given nation-state into the community of nations, the new world order. But human rights are also, like the Ten Commandments, dependent as binding moral commandments on a deeper theological vision. They cannot themselves tell us the purpose of life.

The fate of human rights is not yet decided in our time. Much, much hangs in the balance. The long term recognition of human rights requires the engagement of a social hermeneutic which is philosophically open to universality, socio-historically attuned to the role played by religion in society, and theologically ready to proffer apologetical arguments for and against religious claims in the quest for a true account of human nature under God. All of these arguments are in considerable disrepute today. Yet human rights will best be fulfilled if and when a theological ethic brings these orientations into an integrated focus. If it does so, it will be a "light to all the peoples," a "light which enlightens the whole world."

The articulation of human rights in this way may well enable humanity to approximate more nearly God's truth and justice in our time. That covenantal calling, articulated in an exemplary, if secular and inevitably temporal, way in efforts to state and defend human rights, speaks from the deep unity of creation, Sinai, Calvary, and the New Jerusalem, and it promises to touch and renews also Athens, Benares, and Mecca.

13

Religious and Cultural Rights of Muslims

Western experiments in human coexistence have undergone a radical revolution in the last half century. Martin Marty's recent essay "From the Centripetal to the Centrifugal in Culture and Religion" says it all: The shift is from the "global village," "the spaceship earth," "homogenization" and "planetization" to "particularism" and "difference," if not "tribal warfare."

The South African revolution is different. While many nations are breaking apart, South Africa is seeking unity. It is neither innocent nor unaware of the difficulties involved. The compulsion is for unity without uniformity. The reality is diversity. The fear is disintegration. The theme of President Nelson Mandela's inauguration address was "One Nation: Many Cultures." Not everyone in South Africa believes in non-racism, non-sexism, and the quest for oneness. The search for something new that transcends difference without collapsing the many into the one nevertheless constitutes a message of hope to many people both in South Africa and around the world. South Africa is a microcosm of the global challenge for people of difference to live together. It is this that has persuaded me to comment (as a particular South African) on a particular South African problem, in a volume seeking a measure of universal consensus on *Religious Human Rights in Global Perspective.*

Others, in this volume and elsewhere, have properly lamented the lack of sufficient emphasis on religion in the human rights debate. In this chapter, I shall approach the question of religion in terms of the contribution it can make to cultural renewal, while mindful of the human rights violations to which it has often contributed—in South Africa and beyond.

South African history is marred by exclusion. The political center has notoriously and aggressively denied access to blacks. Seen to be "non-white" from the perspective of the racist regime, blacks have been assigned a place on the lower slopes of the pyramid of humanity. The political center has in various earlier seasons excluded "non-English," "non-Afrikaners," "non-Calvinists," "non-Christians," "non-racists"—and, of course, "non-males," "non-monied," and more. We now pride ourselves as being a "new" South Africa that includes. In reality, however, exclusion continues.

Some suggest that the quickest way out of the spiral is to ensure that we forget difference, and learn to be the same. It is this that makes the minimum consensus of liberal democracy (what Charles Taylor has called "difference-blind" liberalism) an attractive option for those who fear difference in the wake of apartheid-imposed separation. Such an ideal is expressed perhaps nowhere better than in John Rawls' notion of a "thin consensus." It requires all "thick" cultural, ethnic, and religious baggage to be left outside the public square or hidden in dark and private recesses of one's soul. This, it is argued, is the only reasonable way around the quarrel that inevitably ensues from "non-commensurable" notions of the common good. This kind of liberalism is questioned in what follows:

First, I shall argue that the liberal consensus is not thin at all but in fact thick with white, male, Eurocentric particularisms deceptively sold in the name of value-free common sense and universal realism. "It is marvelously easy," suggests Renato Rosaldo, "to confuse 'our local culture' with 'universal human nature'." Only the excluded—those who are "other" in their own home know that it is not. In the United States, African-Africans, Hispanics, and Chicanos feel excluded by a melting pot ideology that is sold as inclusive. In the United Kingdom, West Indians are alienated by the best of British culture, described by Lord Durham as having "a high estimate of [its] own superiority, [taking] no pains to conceal from others [its] contempt and intolerance of

usages" that differ. In South Africa, blacks see no reason to tolerate what once passed for "Christian civilization."

Second, I shall argue that in the South African context, where race, ethnicity, culture, and group identity have been used to sustain the apartheid monster, multiculturalism runs the danger of becoming a sophisticated form of neo-apartheid. Difference for the sake of difference can indeed collapse into tribalism of the worst kind.

Third, reaching beyond the options of both classical liberalism and multiculturalism, I shall explore the option of difference as a means of striving towards a common destiny and a common core culture—as yet unknown and undefined. To attain this end the importance of cultural, religious, gender, ethnic, and other differences needs to be protected against all imposed agendas of domination by dominant political chiefs and elitist cultural brokers.

The Failure of Liberalism

The affirmation of individual rights has much to offer a country like South Africa, emerging as it does from decades of human rights violations and apartheid abuse, where human rights have been sacrificed in pursuit of ideological madness.

Although an emphasis on individual rights is not the sole prerogative of liberalism, the liberal tradition has laid claim to these rights in a special way. It has frequently done so at the cost of socio-economic rights, as well as cultural, religious, and group rights. But personal well-being cannot be reduced to freedom of choice; "first generation" rights cannot be fully realized in isolation from "second generation" and "third generation" rights. Culture and religion involve more than *laissez-faire* supermarket-style choice. To the extent that liberalism downplays religious, cultural, and other "thick" sources of belonging such as memory, language, ethnicity, class identity and gender, it ignores an essential dimension of what it means to be fully human. It undermines the participation of those whose identity does not enable them to enter fully into the prevailing ethos of society. Indeed, to argue that human identity *can* exclude issues of religion and culture is itself a cultural position. It is an attempt, in the name of an imposed consensus, to sanitize the public square of cultural, religious, and other differences that violate the dominant ideas of the existing order.

History shows that the greater the capacity and willingness of the outsider to assimilate the culture of the guardians of the

public square, the greater the chances that outsider becoming an insider. Those who cannot and will not submit to assimilation are left with one of two choices: they are side-lined, or they rebel. Missionized nineteenth-century Africans who dressed in Western clothes and lived in square houses soon found themselves in a category above the "red people" who refused to be Westernized, African chiefs who sent their children to Governor Grey's Kaffir' College in Cape Town, designed to produce "black Englishmen," were regarded as the "good kaffirs." Colonial authorities were ready to regard them as part of "Christian civilization"" in Africa. The white National Party would, in time, shift the goalposts, demanding that white skin be an added ingredient to what makes for civilization. The South African conflict has, however, always involved more than color.

In a word, not all Africans have a desire to become "black Englishmen" or black appendages of some other imposed identity. Steve Biko's words stand as a warning against any notion of assimilation which makes passivity the conduit that leads from rejection to acceptance: "Blacks are tired of standing at the touchlines to witness a game that they should be playing, They want to do things for themselves." Predictably accused of racism in liberal circles, Biko responded:

> If by integration you understand a breakthrough into white society by blacks, an assimilation and acceptance into white society by blacks, an assimilation and acceptance of blacks into an already established set of norms and codes of behaviour set and maintained by whites, then Yes I am against it.

The imposition of a ruling hegemony on those most alienated from it is often fertile ground for counter-hegemonic cultures. At the very least it generates what W.E.B, du Bois has called a sense of "double consciousness":

> One ever feels his twoness—an American, a Negro; two souls, two thoughts, two unreconciled strivings; two warring ideas in one dark body, whose dogged strength alone keeps it from being torn asunder.
>
> [The American Negro] would not bleach his Negro soul in a flood of white Americanism, for he knows that Negro blood has a message for the world. He simply wishes to make it possible for a man to be both a Negro and an American, without being cursed and spit upon. . . .

Charles Long has argued that African-Americanism, driven by white American cultural hegemony, has located itself beyond the right to participation for which du Bois asked. It has given expression to "an-other" (a counter-hegemonic) space within American society—over against white hegemony, In a similar vein, other minorities have found a space apart from mainstream America. To this South African observer looking in, the American melting pot option has failed. Sensitivity to issues of color, race, and difference is foremost in the minds of South Africans who are committed to genuine unity. If a rainbow is a unity of different colors, the notion of a rainbow people is not something that South Africans readily recognize in the American experiment.

The South African history of struggle against apartheid has many contours, including those of race, gender, ethnicity, class, and other divisions. It has, at the same time, brought people of difference into unity. This process reminds us that identity never has been something stable and inherently given, but is instead a social construct that emerges in dialogue. Louise du Toit, seeking to unravel the notion of identity, writes: "What we call our 'selves' and our 'world' are effects or products of the particular, historical [cultural] communities in which we find ourselves always already immersed." She argues that according to this theory "identity itself, previously regarded as the innermost essence of any particular person or thing, is seen as itself nothing more or less than a [social] construct. . . . It is not bestowed from above, but rather genernted from the sides." The borders of cultural and religious encounter are invariably ambiguous, and it is precisely here—in what Renato Rosaldo calls the "border zones" of identity—that future possibilities of genuine encounter are to be found rather than in the spheres of cultural hegemony that are under the watchful eye of the cultural elite, A political model that seeks to limit or exclude the ongoing encounter of cultures and religions limits the future growth and possibilities of the very culture it seeks to protect. In generating counter-cultural hegemonies, it contributes to the inevitability of cultural wars.

To the notion of "culture in dialogue and change" as a basis for living together, we return later in quest of a new culture of openness. The reality is that this dialogue (although happening wherever people meet) is not promoted as the engine that unites people in classical liberal society. In most liberal societies different cultures, religions, and other ethnic expressions coexist. They do

not obviously enrich one another. There is certainly no attempt to bring them into structural engagement as a basis for reaching beyond "what is" to "what is not yet." Most liberals, in fact, see no reason for something new.

It is this that makes multiculturalism an attractive alternative, although it, too, can be used to defend the structures of the dominant order. Difference can be controlled, manipulated, and censored to ensure that dissent is kept to a minimum, never being allowed to challenge the ruling consensus that steers the nose of the ship. This aside, at best multiculturalism knows that there can be salvation outside of "differenceblind" liberalism.

The Limits of Multiculturalism

> The Zulu is proud to be a Zulu the Xhosa is proud to be a Xhosa and the Venda is proud to be a Venda, just as proud as they were a hundred years ago. The lesson we have learned from history during the past 300 years is that these ethnic groups, the whites as well as the Bantu, sought their greatest fulfillment, their greatest happiness, and the best mutual relations on the basis of separate and individual development . . . the only basis on which peace, happiness, and mutual confidence could be built up.

When multiculturalism is uncritically promoted as an end in itself, these words, spoken in 1959 by Minister of Bantu Administration and Development Mr. De Wet Nel, cause South Africans instinctively to experience a sense of *deja vu*. Apartheid was built on difference. "To each its own." "Separate but equal." "Autonomy and cooperation." These are the slogans of South Africa's past. "Group identity," "a federation of independent states," "Boerestaat politics," and Inkatha-style "Zulu nationalism"—these are notions still employed by those who cling to the old in the midst of the new.

The question is whether the multicultural model, which views ethnicity and culture as the distinguishing categories of individual and social identity, can help heal the South African nation. Given the close link between culture, race, and economic disparity in South Africa, the pertinent question is whether ethnic categories such as "blackness" are in fact critical and radical enough to deal with the underlying divisions in South African society. Neville Alexander's critique of black consciousness in this regard must be taken into account. He argues that "any cultural product that

enhances humanity, by weakening the perpetuation of the system which enables men to exploit others, is beautiful. Anything, whether black, blue or red, which does the opposite or tends to do so, is ugly." His concern is, however, that like any other ideology, black consciousness can be co-opted by the very forces it seeks to overthrow. If its leaders are "bought off by the powerful and all-pervasive oligarchy to become satellite 'capitalists' or apologists for these, the Black Consciousness Movement will become another conformist attempt: it will become a consumerist movement providing the ideological basis of firms catering for Afro-styles. It will give the appearance of militant opposition while in reality constituting a necessary and even a vital aspect of the establishment."

Alexander continues: "The Black Consciousness Movement correctly stresses the unity of the oppressed people of South Africa. . . ." His argument, however, is that a critique of apartheid must necessarily go beyond color. It must penetrate the socio-economic roots of the apartheid system—a point belabored by many proponents of black consciousness. "It is not the 'white' man [sic]," he writes, "but the system that oppresses us." He at the same time shares black consciousness' rejection of white liberals, while suggesting it would be a mistake to believe that all liberals are white. "Liberalism," he declares "is a greater danger in the long run to the struggle of the oppressed than Fascism."

While, for the foreseeable future, alienation and exploitation in South Africa is likely to continue to be accurately symbolized by categories such as "black" and "female," an increasing number of black males (at least) are likely to find themselves in privileged and socially unhindered positions in South African society. And, if human nature can be predicted, some will in turn defend the structures that make this possible. In brief, there is already every indication that race, color, and ethnicity will become increasingly ambiguous social terms in South Africa. Not all blacks are of a common ilk. Not all white males are quite the same! Further Martin Marty reminds us that "Latino/a America is not a homogeneous group. Rather, it includes wealthy rightwing, Miami-based Cuban exiles, the undocumented workers of the Southwest, Puerto Ricans in Manhattan ghettoes, illegal Haitian immigrants, and Salvadoreans in search of sanctuary."

The question is whether the particularities identified by mainstream multiculturalism are indeed particular. Who decides

what constitutes a particular identity? Differently stated, the question is whether multiculturalism takes the dynamic and fragmentary character of cultures seriously. Does it give sufficient consideration to the blurred borders and margins of group formation as being crucial to future cultural development? In other words, does this model of living together not presuppose a chauvinistic rigidity and "God-givenness" to culture that lays at the root of the very conflict that almost thrust South Africa into an apocalyptic demise?

James Moulder offers a sobering and lucid word on culture :

> According to the dictionaries, we call a crop of artificially and experimentally grown bacteria a culture. This fact is worth noting for at least two reasons: Firstly, it reminds us that the word "culture" is derived from the Latin word *cultura,* a word for farming, for a complex process in which we deliberately and in-tentionally interfere with nature and try to improve its performance, Secondly, it point to the fact that, whatever one's culture is, it is something that has been created, artificially and experimentally; it is not something that is given to us in the way in which the number and the color of our eyes are given to us. What this all boils down to is that when one is talking about one's culture, one is talking about the product of a complex process of socialisation.

Moulder proceeds to make five important points regarding culture: First, everyone's culture has been created by others for him or her; he or she is born into it. Second, everyone's culture is changing. Third, cultural groups are never totally homogeneous. Fourth, no cultural group is totally unique. Fifth, nobody finds it particularly easy to change cultures. It is, Moulder suggests, naive to suggest that cultures need to be protected in the shape that they find themselves at any particular point in history. Cultural "border zones" simply must be taken seriously in cultural analysis.

It is equally naive to suggest that the process of cultural formation has been devoid of political manipulation. This means that cultural engineering, especially at this crucial point of South African history, is not quite as despotic as the notion might at first appear. Indeed a certain amount of cultural reconceptualization and "gentle nudging" is not only inevitable but probably to be commended as a basis for countering the artificial racist cultures that presently dominate the South African scene. The democratic

focus of contemporary South African politics, at the same time, makes it likely that any form of "hard" cultural engineering would meet with an appropriate level of resistance.

Cultural Openness

The promise of openness is inherent to cultural border zones. T.S. Eliot has suggested that the greatest creativity occurs at the friction edge of cultures—where the old meets the new, where cultures fuse, where the growing edges of traditions are most vibrant and fragile. For societies in transition, where people are obliged to face that which is new, there is a disposition to discover options for living together that "stable" societies never know. Empires that have not yet fallen and people who live as happily in the iron cage of intransigence usually regard adventure as unnecessary and stupid. It takes a certain kind of compulsion to embark an Abrahamic and Sarahaic journey into "the unknown not knowing where [we] are going."

Gloria Anzaldua, in *Borderlands/La Frontera*, a story written from the perspective of a Chicano lesbian woman, shows how the struggle for survival on the edges of society contains the potential for new forms of human understanding. "The new *mestiza* [person of mixed ancestry]," she says, "copes by developing a tolerance for contradictions, a tolerance for ambiguity. She learns to juggle cultures. She has a plural personality, she operates in a pluralistic mode—nothing is thrust out, the good the bad and the ugly, nothing rejected, nothing abandoned. Not only does she sustain the contradictions, *she turns the ambivalence into something else.*" Rosaldo comments: "In making herself into a complex persona, Anzaldua incorporates Mexican, Indian, and Anglo elements at the same time that she discards the homophobia and patriarchy of Chicano culture. In rejecting the classic 'authenticity' of cultural purity, she seeks out the many-stranded possibilities of the borderlands." She argues that because of their long practiced art of cultural blending, Chicanos have become leaders in developing "new forms of polyglot cultural creativity."

Anzaldua's story is repeated every day in Soweto and in the Cape Flats (a "colored" resettlement area in Cape Town). Sowetan culture is a polyglot. Migrant workers from the Transkei, from Venda, Zululand, and Qwa Qwa encounter urbanized neighbors and unlawful immigrants from Zaire, Nigeria, Ghana, and elsewhere. There are gangsters and thieves, frightened people and

an emerging bourgeoisie. They speak English to enter the realm of employment. They speak Afrikaans in order to negotiate the still entrenched apartheid bureaucracy. They speak "tsotsi-taal" in the shebeens, while, in the mine compounds, the linguafranca is "fanakalo," a dialect which is ultimately non-language. "Soweto 1976" has been followed sixteen years later by a hero's welcome for a Robben Island fugitive who was to become the first president of a democratic South Africa. This is all part of a dynamic Sowetan culture. It is an identity that "is." It is also *en route*. In its openness it reaches into the future.

The Cape Flats is not Soweto. It is Muslim, Christian, Hindu, and atheist. It is Malay. It is colored. It is black. It is communist, workerist, and survivalist. It also provided the reviled (but "new") National Party, that imposed apartheid on a nation for 45 years, with its only provincial victory in the country's first democratic election. It too is a polyglot.

The interim constitution of the emerging South African nation is designed to bring different cultures—those that were, in terms of apartheid ideology, supposedly each sufficient unto themselves, into a unity. South Africa has always been a place of difference. Difference is palpably felt. Now, however, for the first time in a long history of struggle, it is viewed positively. To have spoken of difference in many progressive circles prior to 1990 would have been to provoke anger. Apartheid-insulated difference was necessarily spurned. Today the *kairos* challenge is how difference can be employed to build a united nation.

Will the polyglot of cultures, the numerous subaltern identities, eventually blend in difference and unity as Soweto, the Cape Flats, Kwa Zulu, the former Bantustans, Johannesburg, Potchefstroom, Pretoria, and Cape Town (each with evolving cultures of their own) encounter one another? Alternatively, will Christians, Muslims, Hindus, Jews, and atheists who fought a common struggle against apartheid, having been beaten by the same apartheid police, locked up in the same prisons and having gone together into exile, be able to maintain the unity that forged unity in difference? Will the separate cultures coexist side by side—"separate but equal" (to use a bad phrase)? If so, from where will the social tissue come that binds the nation? Will the center hold? Will everything collapse in disintegration? It is too early to tell. There are, however, some tentative signals hidden in the journey travelled thus far. I offer a few observations:

A Dynamic Culture

Culture is more than a light coat that rests on one's shoulders, to be discarded at will. It is more than a channel through which one has an option to express one's being. Culture *is* being. It is the story, memory, symbol, language, and place within which we live, move and have our being. It is religion and belief. It is life. To quote Franz Fanon, culture is "the action through which [a] people has created itself and keeps itself in existence." Or, in the words of Raymond Williams: "Culture is ordinary." To the extent that a person is alive, responding to new challenges, ready to engage the other in dialogue, culture is dynamic. Culture is *en route* because people are *en route*.

Africans instinctively understand this. A traditional African understanding of *ubuntu* affirms an organic wholeness of humanity—a wholeness realized in and through other people. The notion is enshrined in the Xhosa proverb: *umuntu ngumuntu ngabantu* (a person is a person through persons). This is a belief that recognizes within other people the presence of the divine through which a person attains full humanity. *Ubuntu* constitutes a residual presence in the inevitable mix of African cultures, that is being rediscovered as a binding imperative in South African society. It is built on the realization that, like it or not, we are shaped for good and bad by a host of others with whom we share our lives. Meaningful relationships, whether "by blood," "by marriage," or even "by association," are dearly cherished by traditional African culture. Such relationships constitute an organic identity that the Western world can only with difficulty comprehend. Primarily it involves kinship within one's own clan, but it is also possible with personal strangers"—people within whom I grow humanity, whether through affirmation or conflict. There is ample evidence in South African history of traditional Africans drawing others (whether missionaries or white settlers—some of whom turned against the Africans) into kinship with themselves. In sum, an African sense of community includes and unites, and in so doing it changes. The story of Soweto, with all its cultural assets and liabilities makes the point. It also reminds us that neither African culture, nor any other culture, should be romanticized. Still the insights of traditional and contemporary African culture should not be overlooked in the quest for what is new.

At the heart of Africa, despite its changing character, there is dialogue with one's own and with the other. It is a deep-seated

anthropological and religious given. There is recognition that within the other, however different, there is humanity and the promise of an enriched life which makes social bonding possible. A common South African culture does not exist. But given the place of belonging, forging, and uniting in African encounter, it might yet emerge. The celebration of African culture ensures that whatever the nature of future South African culture, at the center of human encounter will be mutual respect.

A Quest for Unity

If South Africa is to be one nation, there must be a nexus where the different cultures meet or at least where common values within these cultures enable some form of organic union.

Welsh neo-Marxist Raymond Williams recognizes the existence of a plurality of working-class cultures, while arguing that a common culture will dawn to unite the diverse strands of struggle in unity. He insists that humanity "needs a common culture, not for the sake of an abstraction, but because we shall not survive without it." Countering any sense of imposed uniformity, he writes: "The distinction of a culture in common is that. . . *selection is freely and commonly made and remade.*" Thus, he sees culture as the voluntary outcome of human solidarity grounded in democratic socialism. Neville Alexander, a dedicated South African Marxist, on the other hand, favors differentiation, whether between religions, regions, languages, or other cultural phenomena. He stresses the dialectic relationship which exists between sub-cultures and as an important ingredient of any society—"provided they don't undermine the core culture."

The debate over a common culture and/or a core culture continues. Williams' point is, at the same time, well taken. Alexander would agree: A common culture does not yet exist—not in South Africa and not in most liberal democracies around the globe. To suggest that it does is to exclude those from the nation-building exercise whose being is shaped and expressed by alternative cultures. It is to collapse the democratic process into a thin liberal paradigm that excludes difference.

Yasmin Sooka provides a vivid example of the cost involved in such cultural exclusion: South African Indians trace their historical origins to two immigrations. The first is the immigration of indentured laborers who came to the country in 1860 to work on the Natal sugar cane farms. "The Colonial Government [in

India] was instructed to send no Brahmins. . . [and] requested medical officers to examine the hands of the immigrants to assess whether they were the hands of people accustomed to work." The second wave of immigration was that of "free passage" Indians, consisting of traders and professionals who paid their own way. They were able to move freely around the country and soon emerged as the leaders of the Indian community, being elected to leadership positions in the South African Indian Congress (SAIC). Some called themselves "Arabs" in order to be differentiated from the "coolies" who worked as laborers on farms. When the colonial governments of India and South Africa entered into the Cape Town Agreement of 1927, the agreement was supported by the SAIC and rejected by spokespersons for the descendants of the indentured laborers. The Agreement allowed for the repatriation to India of those Indians who so chose, while an upliftment scheme was introduced for those who chose to remain in South Africa—provided they *assumed Western standards of living*. Few Indians chose repatriation. Those able and willing to adapt to the demands of Western culture were gradually absorbed into mainstream society, at least to the extent that whites allowed this to happen. Those who clung to Indian culture were increasingly sidelined from mainstream society. In reality, however, they had minimum access to Indian cultural institutions, and their links with "established" Indian culture and customs became increasingly limited. Many adopted the Christian religion. Apartheid segregation and the impact of Christian national education in turn gave rise to an underclass Indian culture that separated the descendants of indentured laborers from whites as well as from merchant-class Indians. They were also separated from working-class Africans whom the underclass Indians came to regard as their chief rivals for work, housing and other material needs.

It is this kind of exclusionary experience that has persuaded constitutional negotiators in South Africa to adopt a language policy which recognizes all eleven major languages spoken in South Africa as "official." The adoption of English as the sole official language (which has been the case in many other African countries) would exclude large sections of the black community from participation in the affairs of the emerging democracy, while further empowering those proficient in this language. Douglas Young argues that a single-language policy—whether it succeeds or fails—would have detrimental effects on the democratic process.

If it were to succeed, the privileges of first-language English speakers would be indefinitely entrenched. If it were to fail, the nation could revert to entrenched socio-political disintegration and ethno-linguistic divisiveness. Concerned to avoid the emergence of a cultural basis that gives rise to a new form of elitism, Neville Alexander insists: "Some of us have arrived at the position that first of all a multilingual nation *is* possible."

Culture, language, and other identity-creating realities such as religion, memory, gender-consciousness, and social location can be neglected only at the cost of excluding people from the democratic process. Democracy is about the proliferation of stories, symbols, languages, and religions. The exclusion of these is tantamount to the exclusion of people whose identity is constituted by them. The challenge is to find that which holds diversity together. Current debate suggests that Gadamer's understanding of a fusion of horizons, overagainst a Hegelian-type synthesis, which implies cultural hegemony, has the most to offer. Such a fusion suggests the possibility of what has been called a polycentric: unity. In South Africa, however, the quest is for something to hold the nation together after generations of racial, ethnic, cultural, and religious division.

This quest that something to do with discerning that which transcends what is immediately evident in any particular. It involves recognizing the possibility of such transcendence in every story—the hope for something more, than what is immediately before us. It has something to do, moreover, with discerning meaning in one's own story and the stories of others. It is also about discovering something greater than any particular story in the encounter between stories. It involves the glimpse of something radically new, yet grounded in the traditions of the present.

A prerequisite for this quest is openness to something more than that which emerges through unpromoted dialogue and encounter. A commitment to openness involves creating socio-political and cultural structures that facilitate and promote encounter, dialogue, and openness, without making any attempt to determine or prescribe the ultimate shape of the culture. The emerging culture is and will be a polyglot— insofar as all cultures are essentially such. It will probably also contain the coexistence of differentiated sub-cultures—insofar as no one culture is broad enough to include the dynamic of new and renewed cultural alternatives.

Resources for Renewal

Particular religions often assume that they contain all the spiritual resources and moral authority that any future society may need. The religious wars of early modern Europe were a consequence of such thinking. It was this that forced modernity to face the challenge of pluralism, which shifted the primary moral question away from what constituted the absolute "good" to how people of different religious and ethical persuasions could coexist. Harold Berman has argued that it took six great revolutions, the Papal Revolution plus five, to separate secular law from the turmoil of religious conflict. For all the good that secularism has produced, it has also, suggests John Witte, reduced the public role of religion to the level of non-religion. Yet ultimately it is religion, uncleansed of its *elan vital*, despite the negative elements of this package, that contributes most to the art of living together.

The amazing thing about religion is that it has the capacity to renew itself. Just when a particular religion seems to be an established part of a particular oppressive ideology, resources are discovered in that same religion that enable it to be renewed. It is this dynamic that is lost when religion is tamed to fit the liberal paradigm. It is unrestrained black, feminist, and other liberation theologies that challenge the hegemony of white ruling-class male domination in Christianity. Unchastened feminism rocks the boat of Muslim patriarchy. Some Jewish theologians challenge right-wing political and religious movements in Israel, the United States, and elsewhere. The rigors of modernization challenge the cultural captivity of traditional Buddhist, Hindu and other Eastern religious practices.

Religious dogmatism and exclusivism have taken a heavy toll on South African society. Adjacent to this exclusivism there has, however, also been universalism, inclusivism, and openness within these religions. This openness is being discovered anew in contemporary South Africa, as witnessed in the publication of *The Declaration on Religious Rights and Responsibilities* and the proposed clause for a bill of rights which emerged at the World Conference on Religion and Peace consultation held in Pretoria in November 1993. While the grassroots faithful in churches, mosques, synagogues, temples, and shrines are not always ready to embrace the "religious other," a new-found interest in other religions can be observed in South Africa, which is commensurate with the quest for a broader sense of unity in this country.

I offer only the briefest indications of the quest for openness, for "something more," within the dominant religious traditions. In so doing, I pay tribute to the importance of the observation by the once-maligned Bishop of Woolwich, John A.T. Robinson, that true theological reflection begins on "the other side of the atheist critique."

Some Christians, for example, are emphasizing anew that the incompleteness and unfulfilled dimension of all religions is a preeminent part of Christian belief. The Scriptures recognize that the coming kingdom which promises something new may well result in a *rejection* of much to which Christians cling most firmly in their quest for certainty. "Now, we see in a mirror dimly, but then face to face".

Openness is also found in Islam. Muhammad's status as a prophet was recognized on the basis of *shura* (consultation) and *muhasaba* (accountability). Indeed, an increasing number of Muslim scholars are insisting that hierarchical exclusivism in Islam must be attributed to the emergence of Muslim royal dynasties in the seventh and eighth centuries, which entrenched the interpretation of Muslim law exclusively in the hands of religious leaders. The Qur'an allows for an openness to other religions. In stating that Allah could have made everyone a Muslim, Surah 11:118 suggests there is something to be gained from diversity, inviting Muslims to appreciate the religious traditions of others.

Universalism is an important part of Judaism as well. It is this universalism that partly explains the absence of missionary zeal in Judaism. The God of the Hebrew prophets is never the private God of Israel and Judah. Rabbinic theology develops this theme further in recognizing that the divine judgment of Jew and non-Jew alike is executed solely on the basis of godly living. *Whoever* lives a godly or moral life is, we are told, like a high priest. Shubert Spero goes to great lengths to show that Jewish ethics, grounded in the Torah, shares a moral basis with other (non-Jewish) moral traditions. The *Yalkut* commentary on Deuteronomy 6:5 ("Thou shalt love the Lord thy God. . . ."), in turn, introduces an eschatological dimension to the Hebraic understanding of the Torah which is boldly universalistic in teaching that at the end of time "God will sit and expound a new Torah which will. . . be given by the Messiah's hand." "His voice will reach from one end of the universe to the other and all the inhabitants of the universe will respond 'Amen'."

"Hinduism," suggests South African activist and granddaughter of Mohandas Ghandi, "is the most tolerant of all the major religions of the world." She opposes all forms of proselytization and religious exclusivism, defining Hindu belief as the ability to discern, through prayer and ethical living, the presence of the absolute (the Brahman) in all that exists. Her understanding of Hinduism is in continuity with the teaching of the Indian philosopher-statesman Sarvepalli Radhakrishnan, who understood religion to be "not a creed or a code, but an insight into reality." For him, the attainment of steady spiritual insight is the aim of religious endeavour and the means to it is ethical life and the art of meditation." " More exclusivist forms of Hinduism have gained a certain amount of currency in recent Indian political developments—not least, in the activities of the Bharatiya Janata Party in India. These developments are, however, less prominent than the exclusivism of most other faiths.

Buddhism's recognition of the Buddha as example rather than savior and the eight-fold pathway precludes any sense of Buddhist exclusivism. Indeed, a small but increasing number of South Africans, most of whom have no East Indian cultural affinity, are finding in Buddhism precisely the kind of religious openness denied them within the religions in which they were raised.

Tolerance and acceptance of others is part of African traditional religion and culture as well. Swahili identity is a blend of African, Persian, Islamic, and Indian influences. The Tanzanian notion of *Ujamaa,* in reaching to the heart of Swahili culture, drew together Christians, Muslims, traditional Africans, and Marxists under Julius Nyerere. Nation-building exercises in Somalia, Kenya, the Sudan, and other African states, on the other hand, that looked elsewhere for social cohesion failed.

Of course the suggestion of religious tolerance can be challenged with the most horrific stories of religious warfare. For many, this makes the very idea of religious epistemological openness absurdly utopian. But then any vision, at its best, is necessarily utopian. If a corporate reach is not beyond the immediate political grasp, then, to appropriate a Pauline phrase, "We are of all people most miserable." And if religious and cultural encounter is no more than a power struggle—aptly captured in Sir Hartley Shawcross' axiom (contra Lord Atkin) which suggests that "power is delicious and absolute power absolutely delicious"—then we in South Africa should still be in the trenches bludgeoning one another.

Suffice it to say, within the very plurality that is South Africa, an incentive exists for different cultures and religions to engage one another in quest of something new. Grounded in the particular, it drives the adherents of these groups to reach beyond that which is familiar and safe.

Looking for the New

Everything is not always what it seems to be. Liberalism is invariably culturally thicker than it itself would allow. Multiculturalism is often under the control of an elite who seek to control the character of the multiple cultures. What are projected as universals are often rather parochial. Indeed, particulars to which culturally-specific zealots rigidly cling are often a consequence of cultural hybridization.

Cultural openness, which is always struggling for survival against exclusivist religious fundamentalism, presupposes continuing cultural change. It involves the quest for what Franz Fanon has seen as the infusing of the outer garment with a new "hidden life." Culture is for him the "awakener of the people." It is to "speak to [the] nation, to compose the sentence which expresses the heart of the people and to become the mouthpiece of a new reality in action." Fanon is at the same time aware of how easy it is for culture to become reified and static, providing legitimation to established groups who cling to the past rather than journey into the future.

Cultural openness must involve at least the following. First, it must involve the celebration of the dynamic nature of human existence. This requires the freedom of choice between cultures and religions. Second, cultural openness requires the democratic right of individuals to participate in the shaping and changing of their respective cultures and religions. As Denise Ackermann insists, there can be "no freedom *of* religion without freedom *in* religion." Third, it involves a consideration of the relationship between culture and power. To the extent that group identity is promoted as a basis for empowerment, it invariably undermines cultural openness. Amilcar Cabral never tired of warning against the dangers of classism within the cultural struggle. "It is vital not to lose sight of the decisive significance of the class character of culture in the. . . liberation struggle, even in the case when a category is or appears to be still embryonic." Fourth, it requires recognition of the place and importance of the flexibility of the

borders or margins of religio-cultural movements in the formation of identity. The assumption that the hegemony of the center extends to the peripheral sections of society needs to be challenged. The subaltern, incipient cultures of oppressed people are often more dominant, more dynamic, and more counter-hegemonic than is realized by the cultural, political, and religious elite. Fifth, cultural openness requires a willingness—indeed a sense of compulsion—to grow beyond the village limits or the garden gate. It is often those who are compelled to risk themselves in order to survive that understand openness best. Finally, it requires recognition that as important (and warm) as it is to look inwardly, there is within the particular an incentive to search for more.

Such considerations make Gadamer's notion of the fusion of horizons ultimately more attractive than Hegel's notion of synthesis. The willingness to understand the other involves more than empathy. It is also involves more than seeing the other in terms of our own particularity. Gadamer's words deserve repeating. The fusion of horizons, he says, "always involves the attainment of a higher universality that overcomes, not only our own particularity, but also that of the other. The concept of the horizon suggests itself because it expresses the wide, superior vision that the person who is seeking to understand must have. To acquire a horizon means that one learns to look beyond what is close at hand—not in order to look away from it, but to see it better within a larger whole and in truer proportion."

Gadamer reminds us that the horizons of life are continually being formed and reformed. For him understanding, and by implication human community, consist in the fusion of horizons. This involves more than a clinging to the particular as an end in itself. It involves discerning something transcendent in the particulars and the potentiality of all cultures. In the words of Heidegger, it is "to dwell poetically" in the place where we reside. It is to recognize the unequivocal right of others to do the same in their respective places and imaginatively to share in the creation of a new level of meaning. In the words of Amilcar Cabral, Guinea-Bissau philosopher and political leader, true openness involves the conservation of positive cultural values of every cultural group. It is "to achieve the confluence of these values into the stream of struggle, giving them [the established cultural values] a new dimension." It fills the future, which is "not yet" and sometimes seen as the abyss, with meaning and hope.

Writing from a particular perspective within Christianity, I cannot but be conscious of the vitally important challenges to religious hegemony that have for so long been located in the hands of historically-privileged autocrats, somewhere amidst the infamous twenty percent of the human race. When the narratives of oppressed peoples and classes and gender-interest groups are heard, the liberating dimensions of religion are often rediscovered which point beyond the self-indulgence with particularisms to that which no one particular can ever fully represent. This requires the study of religion to become what Marty calls a "multiplex, multivocal and multimodel exercise." Such study involves the vulnerability and willingness to forsake all that is symbolized in the Cross. The Gospel speaks of the promise of life in a willingness to die.

To affirm the freedom of religion as a basic human right is innocuous if it means no more than the entrenchment of historic privilege. Here Denise Ackermann's axiom is again crucial: "no freedom *of* religion without freedom *in religion*." Protecting the right to challenge religious hegemony is, on the other hand, a vital part of the ongoing renewing of culture in the open venture towards ever shifting horizons. In the words of Dag Hammerskjold, it involves "being *driven* forward into an unknown land. . . ." Hammerskjold continued: "If [our] goal is not determined by [the] most secret pathos [of ourselves and others], even victory will only make [us] painfully aware of [our] own weakness." The quest is for what is new, what is different, and what unites.

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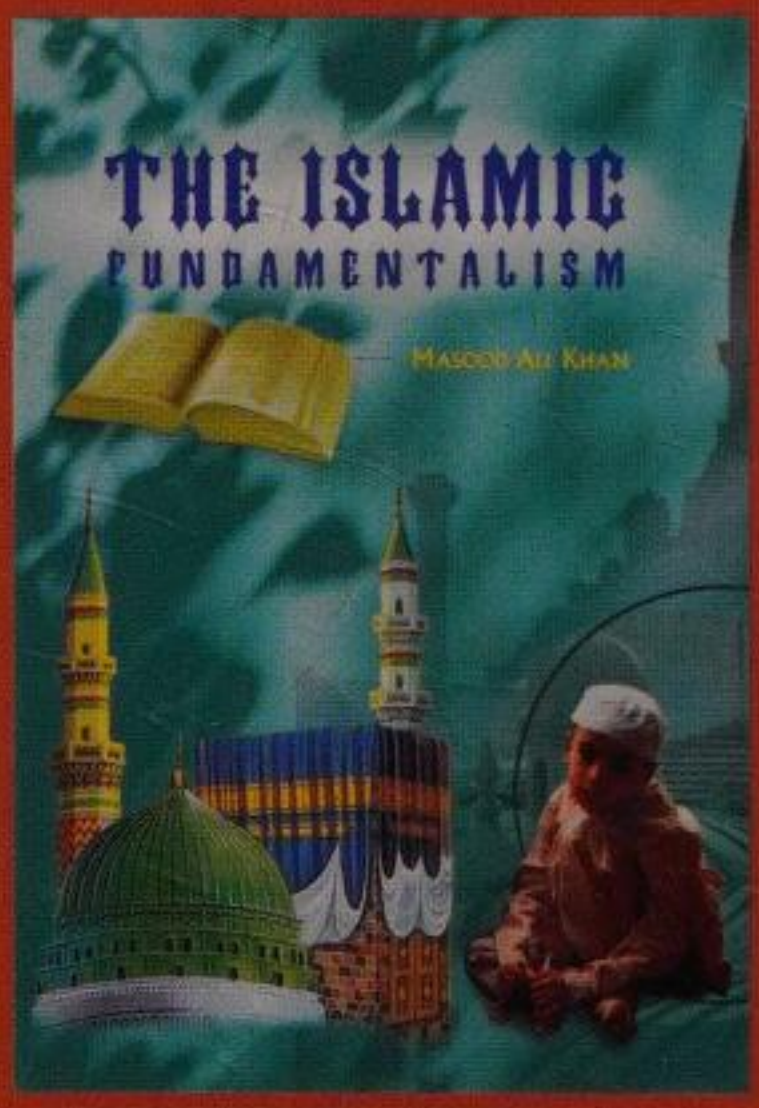

By Masood Ali Khan

ISBN 81-8192-067-8

$ 45 Rs. 600

ISBN 81-8192-088-0

9 788181 920881

$ 75 Rs. 995

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